8545

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 109. 68.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,

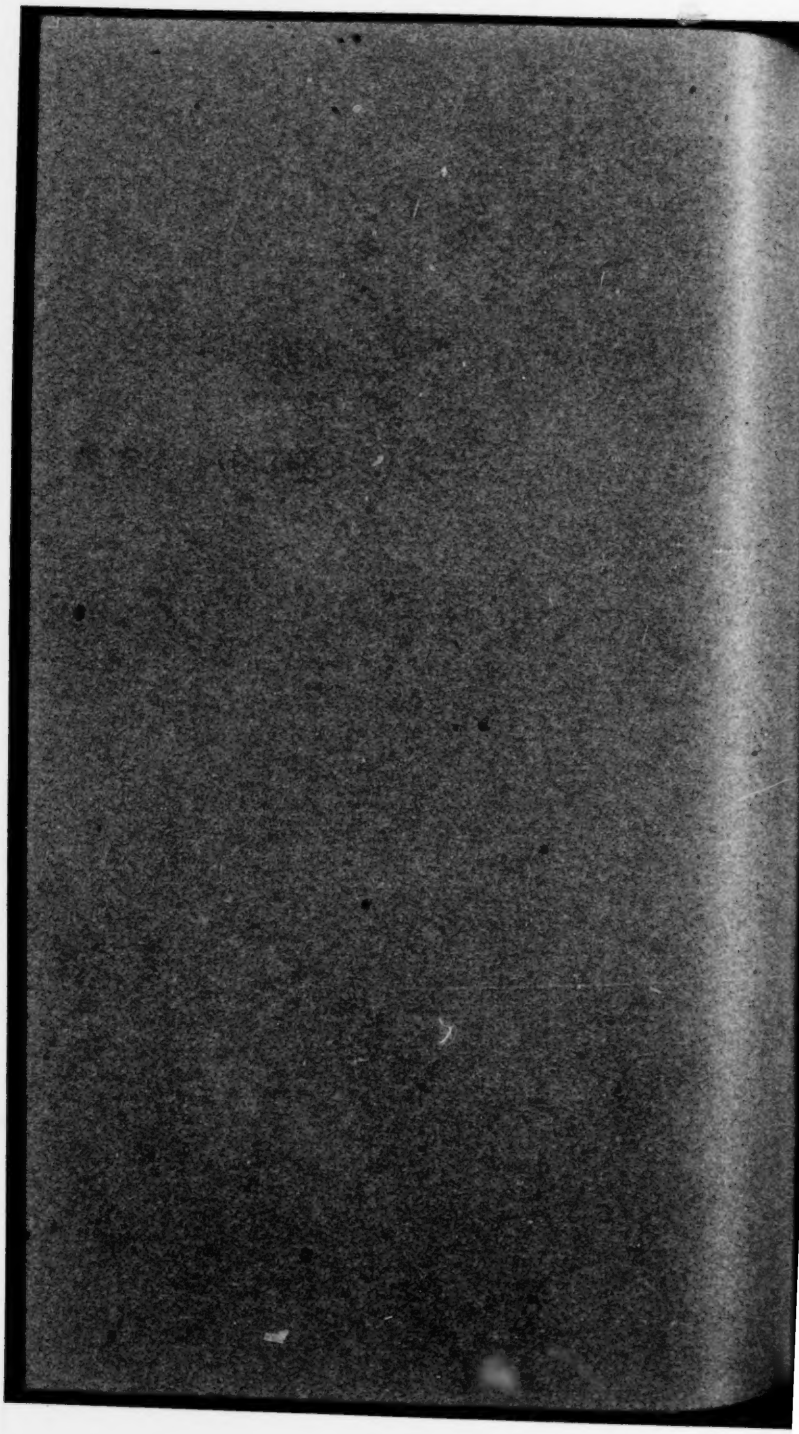
vs.

THE CLYDE STEAMSHIP COMPANY, THE GEORGIA RAILROAD COMPANY, ET AL.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

FILED MAY 26, 1899.

(SIGNED)



SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 307.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,

vs.

THE CLYDE STEAMSHIP COMPANY, THE GEORGIA RAILROAD COMPANY, ET AL.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

INDEX.

	Original.	Print.
Caption	a	1
Transcript from the circuit court of the United States for the northern district of Georgia	1	1
Bill of complaint	1	1
Exhibit A.—Petition of railroad commission of Georgia to Interstate Commerce Commission	7	6
Exhibit B.—Answer of Georgia Railroad and Banking Company et al. to foregoing petition	11	8
Exhibit C.—Answer of the South Carolina Railway Company to foregoing petition	15	11
Exhibit D.—Answer of the Richmond and Danville Railroad Company to foregoing petition	19	13
Exhibit E.—Answer of the Central Railroad of Georgia to foregoing petition	23	15
Exhibit F.—Letter of Ed Baxter to Secretary Moseley, September 3, 1892	27	16
Exhibit G.—Order denying application of Ed Baxter for postponement of decision	29	16
Exhibit H.—Report and opinion of the Interstate Commerce Commission (omitted in printing)	31	
Exhibit I.—Order of the Interstate Commerce Commission, November 11, 1892	71	17
Order for service on defendants	75	19
Order allowing defendants thirty days to answer	77	20
Answer of Georgia Railroad and Banking Company et al	77	20

	Original.	Print.
Transcript from the circuit court of the United States for the northern district of Georgia—Continued.		
Answer of Richmond and Danville Railroad Company et al	84	26
Stipulation as to use of testimony (omitted in printing)	87	28
Stipulation as to depositions of Trammell et al	89	29
Interrogatories to Trammell et al	90	29
Deposition of Lee Trammell	93	31
H. H. Fitzpatrick	96	33
S. A. Turnell	99	35
Stipulation as to testimony of Aldman et al	102	36
Interrogatories to Aldman et al	102	36
Deposition of D. M. Almand	105	38
L. J. Almand	108	40
A. D. Summers	111	42
Interrogatories to Jesse M. Smith	114	44
Stipulation as to testimony of Jesse M. Smith	117	46
Deposition of Jesse M. Smith	118	47
Interrogatories to Allen Fort	123	50
Stipulation as to testimony of Allen Fort	125	51
Deposition of Allen Fort	126	52
Extracts from twentieth report of railroad commission of Georgia	130	55
Stipulation as to examiner to take testimony	136	59
List of witnesses	137	60
Statement of exhibits	137	60
Testimony of Y. Van Den Burg	139	61
T. S. Davant	155	73
J. M. Culp	165	81
C. B. Compton	179	92
Carlton Hillyer	195	104
James R. Thompson	214	119
Joseph M. Brown	218	122
R. E. Lutz	227	129
W. A. Winburn	239	138
Geo. R. Knox	249	146
Geo. P. Biles	266	158
Exhibit No. ½ (Culp).—Articles of association of the Southeastern Freight Association (omitted in printing)	280	
Exhibit No. 1 (Hillyer).—Statement prepared by C. S. Sikes, traveling auditor, etc	284	169
Exhibit No. 2 (Hillyer).—Statement showing income and expenses of Georgia Railroad, etc	286	171
Exhibit No. 3 (Hillyer).—Statement showing loss sustained by lessees of Georgia Railroad, etc	287	171
Exhibit No. 4 (Hillyer).—Statement prepared by Carlton Hillyer, auditor, etc	287	171
Exhibit No. 5 (Hillyer).—Statement prepared by Carlton Hillyer, auditor, etc	289	173
Exhibit No. 6 (Hillyer).—Statement prepared by Carlton Hillyer, auditor, etc	290	173
Exhibit No. 7 (Hillyer).—Statement showing amount of taxes paid by Georgia Railroad, etc	291	174
Exhibit No. 8 (Hillyer).—Statement showing interest on bonds, etc.	292	174
Exhibit No. 9 (Hillyer).—Statement showing expenditures on improvements, etc	292	174

	Original.	Print.
Transcript from the circuit court of the United States for the northern district of Georgia—Continued.		
Exhibit No. 10 (Hillyer).—Statement showing total freight revenue, etc	292	174
Exhibit No. 11 (Hillyer).—Statement showing yearly averages of revenue, etc	294	176
Exhibit No. 13 (Thompson).—Classified statement of tonnage, etc. (omitted in printing)	295	
Exhibit No. 12 (Thompson).—Statement of tonnage, etc. (omitted in printing)	297	
Exhibit No. 14 (Lutz).—Statement of traffic manager of Western Railway of Alabama, etc	298	176
Reports of carriers for years 1892 to 1896, etc. (omitted in printing)	299	
Opinion by Newman, J. (No. 524) (omitted in printing)	301	
Opinion by Newman, J. (Nos. 525 and 526) (omitted in printing)	315	
Final decree	316	177
Order allowing appeal	317	177
Assignment of errors (omitted in printing)	317	
Citation and service	321	178
Clerk's certificate	322	179
Minutes of argument	323	179
Decree	324	180
Petition for appeal	325	180
Assignment of errors (omitted in printing)	326	
Order allowing appeal	330	180
Opinion (omitted in printing)	331	
Clerk's certificate	346	181
Citation and service	347	181
Stipulation as to parts of record to be printed	349	182

a United States of America, fifth judicial circuit.

Pleas and proceedings had and done at a regular term of the United States circuit court of appeals for the fifth circuit, begun on the third Monday of November, 1898, and held in the court room of said court in the city of New Orleans, before the Honorable Don A. Pardee, United States circuit judge for the fifth judicial circuit, the Honorable A. P. McCormick, United States circuit judge for the fifth judicial circuit, and the Honorable Charles Parlange, United States district judge for the eastern district of Louisiana.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT, *vs.* THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als., appellees.	No. 751.

Be it remembered that heretofore, to wit, on the 29th day of July, 1898, a transcript of the record of the above styled cause from the circuit court of the United States for the northern district of Georgia, was filed in the office of the clerk of said United States circuit court of appeals, in the words and figures following, to wit:

1 *Bill of complaint.*

Filed in clerk's office 27 day of May, 1893. O. C. Fuller, clerk.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION *vs.* THE CLYDE STEAMSHIP COMPANY; THE SOUTH CAROLINA RAILWAY COMPANY; The Georgia Railroad and Banking Company; The Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond and Danville Railroad Company and The Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia; D. H. Chamberlain, receiver; H. M. Comer, receiver; and Reuben Foster and F. W. Huidekoper, receivers.	In equity, No. 525.

To the circuit court of the United States, sitting in equity within and for the northern district of Georgia:

Your petitioner, the Interstate Commerce Commission, which was created and established and now exists under and by virtue of an act of Congress of the United States, entitled "An act to regulate commerce," approved February 4, 1887, as amended by an act approved March 2, 1889, and as amended by an act approved February 10, 1891, and as amended by an act approved February 11, 1893,

HUMBLY COMPLAINING

showeth unto your honors that the Clyde Steamship Company is a corporation created, chartered, and existing under and by virtue of the laws

of the State of South Carolina, having its principal office at Charleston, in the said State of South Carolina; that the South Carolina Railway Company is a corporation created, chartered, and existing under and by
2 virtue of the laws of the State of South Carolina, having its principal office at Charleston, in the said State of South Carolina, and the defendant D. H. Chamberlain is the receiver thereof; that the Georgia Railroad and Banking Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia, having its principal office at Augusta, in the said State of Georgia; that the Louisville and Nashville Railroad Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Kentucky, having its principal office at Louisville, in the said State of Kentucky; that the Central Railroad and Banking Company of Georgia is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia, having its principal office at Savannah, in the said State of Georgia, and the defendant H. M. Comer is the receiver thereof; that the Richmond and Danville Railroad Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Virginia, having its principal office at Washington, in the District of Columbia, and the defendants Reuben Foster and F. W. Huidekoper are the receivers thereof; that the Georgia Pacific Railway Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Alabama, having its principal office at Birmingham, in the said State of Alabama.

That the said corporate defendants were at the time of the committing of the grievances hereinafter specially mentioned and still are common carriers, engaged in the transportation of persons and property, partly by rail and partly by water, under a common control, management, or arrangement for continuous carriage or shipment through several of the United States, and particularly were the said defendants then engaged in the said business from the city of New York and other North Atlantic ports to Atlanta, Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, all in the State of Georgia, and as such common carriers were, during all the time aforesaid and still are, subject to the provisions of the said act, entitled "An act to regulate commerce," and said amendments thereto.

That the said corporate defendants were heretofore, to wit, on the 22d day of October, 1891, duly impleaded in a controversy, not requiring a trial by jury, as provided for in the seventh amendment to the Constitution of the United States, before the said Interstate Commerce Commission upon the petition of L. N. Trammel, Allen Fort, Virgil Powers, constituting and composing the Railroad Commission of Georgia, duly and legally created by the laws of the State of Georgia, for an alleged violation on the part of the said defendants of the provisions of the said act, entitled "An act to regulate commerce," as at large and more fully appears in and by said petition on file in the office of the said commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit A; that a copy of said petition,
3 duly attested by the secretary of the said Interstate Commerce Commission, under the seal of the said commission, was duly forwarded by said Interstate Commerce Commission to each of the defendants aforesaid, as required by the thirteenth section of the said act.

That thereafterwards, to wit, on the 30th day of November, 1891, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia filed their joint answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit B.

That thereafterwards, to wit, on the 4th day of December, 1891, the South Carolina Railway Company, by Daniel H. Chamberlain, receiver thereof, filed its answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit C.

That thereafterwards, to wit, on the 12th day of December, 1891, the Richmond and Danville Railroad Company, in its own behalf and of the Georgia Pacific Railroad Company, filed its answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit D.

That thereafterwards, to wit, on the 25th day of March, 1892, the Central Railroad of Georgia filed its answer to the said petition, as at large and more fully appears in and by said answer on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit E.

That thereafterwards the said cause, being at issue upon the pleadings aforesaid, duly came on for investigation and hearing before the said Interstate Commerce Commission, at a special session thereof, duly and legally assembled for that purpose, at the city of Atlanta, in the State of Georgia, on the 24th day of March, 1892, whereof all the parties had due and sufficient notice, when said complainants, the Georgia Railroad Commission, as well as the said defendants, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, the Richmond and Danville Railroad Company, and the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia, duly appeared by their respective officers and attorneys, and thereupon the said cause proceeded to hearing and determination.

That thereafterwards, to wit, on the 3d day of September, 1892, the Louisville and Nashville Railroad Company, by its attorney, Ed. Baxter, filed a petition requesting a continuance of the said cause brought by the said Georgia Railroad Commission, as at large and more fully appears in and by said petition on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit F.

4 That thereafterwards, to wit, the said Commission duly formulated an order denying the said petition of the Louisville and Nashville Railroad Company, hereinabove referred to as a part hereof, as at large and more fully appears in and by said order on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit G.

That at the said hearing it was made to appear to the satisfaction of the said Commission that the said defendants had violated the provisions

of the said act entitled "An act to regulate commerce," in certain respects as was stated in the said petition herein referred to as a part hereof, and thereupon, on the 11th day of November, 1892, the said Commission duly and legally determined the matters and things in controversy and at issue between the said parties and made a report in writing thereon, which included the findings of fact upon which the conclusions of the said Commission were based, as at large and more fully appears in and by said report of the determination of the said Commission, on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit H.

That thereafterwards and forthwith, upon the determination of the said cause as aforesaid, the said Commission duly formulated an order and notice in relation to the matters and things stated and charged in the said petition, based upon the findings and determination of the said Commission with respect thereto, agreeably to the requirements of the statute in such cases made and provided, which said order now remains in full force and effect, never having been vacated, set aside, altered, modified, or changed in any respect whatever, and is now on file in the office of the said Commission, a copy whereof is hereunto annexed and made a part of this petition, the same being marked Exhibit I.

That thereafterwards, to wit, on the 11th day of November, 1892, the said Commission, agreeably to the provisions of the law in that regard, duly caused a properly authenticated copy of its said report in respect to the matters at issue in said complaint as aforesaid, together with the order and notice aforesaid, to be delivered to the said defendants; and thereupon the petitioner shows that it has not been made to appear to the said Commission that, although more than twenty days have elapsed since the service of the said order upon the said defendants, that the said defendants have ceased and desisted from the violations of law set forth in the said report and order of the said Commission, but on the contrary thereof the said defendants, unmindful of their duty and of the decision and determination of the said Commission, as stated in its report aforesaid, have, through their officers, servants, and attorneys, wholly disregarded and set at naught the authority of the said Commission in that regard, and have willfully and knowingly violated and disobeyed said order and notice, as hereinbefore set forth, hitherto neglected and refused and still do neglect and refuse to comply with the same, in this, that the said defendants have not since, to wit, the 1st day of March, 1893, ceased and desisted from charging or receiving any greater compensation in the aggregate for the transportation of property from New York and other North Atlantic ports for the shorter distance to Atlanta, Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, all in the State of Georgia, than for the longer distance over the same line in the same direction, to Atlanta, in the State of Georgia; the said defendants not having, prior to, to wit, the 1st day of March, 1893, made application to the said Commission for relief under the proviso clause of the fourth section of the act to regulate commerce.

WHEREFORE THE PETITIONER PRAYS—

1. That a subpœna, or other suitable process may issue according to the course of equity, requiring the Clyde Steamship Company, the South Carolina Railway Company, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, lessees of the Georgia Railroad; the Richmond and Danville Railroad Company; the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia; D. H. Chamberlain, receiver; H. M. Comer, receiver, and Reuben Foster and F. W. Huidekoper, receivers, severally to appear at such time and place as this honorable court may determine, then and there each to make full, complete, and perfect answer to the matters and things hereinabove stated and charged as fully and particularly as if the said defendants were each specifically and specially interrogated in regard hereto, without verifying said answer by oath, which said verified answer is hereby specially waived.

2. That upon the filing of this petition an order may be passed by this honorable court directing the method of service of notice of the pendency of this proceeding.

3. That such order or orders may be passed pending the cause as will secure a speedy hearing and determination of the matters and things stated and charged in the foregoing petition.

4. That such order or orders may be passed pending the cause as may be necessary for the prosecution of all such inquiries as the court may think needful to enable it to form a just judgment of the matters and things stated and charged in the foregoing petition.

5. That an order may be entered pending the cause granting to the petitioner a writ of injunction or other proper process, mandatory or otherwise, to restrain the said defendants, their officers, servants, and attorneys, from further continuing in their violations of and disobedience to the said order of the said Commission, and that upon final hearing such injunction may be made perpetual.

6. That a decree may be entered, if it shall seem meet to this honorable court, requiring the said defendants each to pay such sum
6 of money, not exceeding the sum of $500, for every day after a day to be named in said decree that they or any of them shall fail to obey the said injunction or other proper process.

7. For such other and further relief in the premises as to the court may seem meet and the equities of the petitioners' cause may require.

THE INTERSTATE COMMERCE COMMISSION,

[L. S.] By EDW. A. MOSELEY,

The Secretary thereof, thereunto duly authorized.

7 EXHIBIT A.

8 L. N. TRAMMELL, ALLEN FORT, VIRGIL Powers, constituting and composing The Railroad Commission of Georgia,

vs.

THE CLYDE STEAMSHIP COMPANY, THE SOUTH Carolina Railroad Company; The Georgia Railroad and Banking Company; The Louisville and Nashville Railroad Company, and The Central Railroad and Banking Company of Georgia, Lessees of the Georgia Railroad; The Richmond and Danville Railroad Company, and the Georgia Pacific Railway Company, Lessees of the Central Railroad of Georgia.

The petition of the above-named complainants respectfully shows:

First. That they compose and constitute the railroad commission of the State of Georgia; that said commission has been duly and legally created by the laws of the State of Georgia and that its duties, under the laws of said State, are to make reasonable and just rates of freight and passenger tariffs to be observed by all railroad companies doing business in this State on the railroads thereof, and, among other matters, to investigate all through freight rates from points out of Georgia to points in Georgia, and whenever the said commission finds that the through rate charged into Georgia is excessive, unreasonable, or discriminating in its nature they shall call the attention of the railroad officials in Georgia to the fact, and that, when such rates are not changed, it shall be the duty of the commission to present the facts to the Interstate Commerce Commission and appeal to it for relief.

This commission, therefore, having no personal or pecuniary interest in the matter herein set out, except to see that the law is enforced for the benefit of society, and the discharge of the duties prescribed for them by the laws of the State of Georgia, come now and in the public interest complain in their own name, but for the sole interest of the public, and say:

Second. That the defendants above named are common carriers, and, under a common control, management, or arrangement for continuous carriage or shipment, are engaged in the transportation of passengers and property, partly by water and partly by railroad, between Eastern points, to wit, New York, Boston, Philadelphia, and points in the State of Georgia, and as such common carriers are subject to the act to regulate commerce.

Third. That such (and said) common carriers, under such common control, management, or arrangement for continuous carriage, have made and fixed, and have heretofore and do now charge, collect, and
9 receive from the people of this State the following-named rates for tariff for through freight shipped and transported by them from the city of New York, in the State of New York, to the termini of and stations on the Georgia Railroad, in the State of Georgia, to wit:

Through rates of freight from New York, Philadelphia, etc., via Charleston, to Georgia Railroad stations.

	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	54	45	59	43	41	65	83	83
Madison	144	123	107	89	71	56	47	60	44	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	44	43	66	86	85
Covington	141	122	108	91	73	58	48	60	41	43	69	87	86
Conyers	138	119	105	80	75	59	47	59	46	44	70	85	88
Stone Mountain	132	114	101	85	71	58	45	57	46	44	69	80	90
Atlanta	114	98	86	78	60	49	36	48	40	39	58	68	78

The figures 1, 2, 3, etc., and the letters A, B, C, etc., refer to classes of freight known as first-class, second-class, etc., and Class A, Class B and C, and the figures in the lines opposite the name of the town or station mean so much in cents as expressed by said figures on the hundred pounds of freight of each class.

That the transportation of like kind of through freight is under substantially similar circumstances and conditions to such terminus and stations on said Georgia Railroad, and that said carriers have not been authorized by your Commission to charge less for longer than shorter distances for the transportation of said through freight.

Petitioners further show that the city of Augusta, in the State of Georgia, is the eastern terminus of said Georgia Railway, one of the common carriers so engaged as aforesaid in the transportation of passengers and property, partly by water and partly by railroad, under such common control, management, and arrangement for continuous carriage from the city of New York and other Eastern points, and that the city of Atlanta, in the State of Georgia, is the western terminus of the said railroad, and the two cities, which are the termini of said road, are located and distant from each other as follows: Augusta, by the line of railroad, is distant from Atlanta one hundred and seventy-one miles.

And your petitioners show that, notwithstanding the town and station of Greensboro is 88 miles east of Atlanta and 83 miles west of Augusta, and that Madison is 68 miles east of Atlanta and 103 miles west of Augusta, and that Social Circle is 52 miles east of Atlanta and 119 miles west of Augusta, and that Covington is 41 miles east of Atlanta and 130 miles west of Augusta, and that Conyers is 31 miles east of Atlanta and 140 miles west of Augusta, and that Stone Mountain is 16 miles east of Atlanta and 155 miles west of Augusta, the rates of freight charged, collected, and received by the defendants for freight transportation by continuous carriage from the city of New York and other Eastern points to the towns and stations of Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, are more and greater on each class than the amount charged and received for freight to the city of Atlanta, which is a greater distance from the city of New York (and other Eastern points), which is the shipping point in both instances, and so the rate collected and charged for freight shipped from New York by the defendant to the towns and stations on the said railroad is greater than the rate collected and charged by them to the city of Atlanta, notwithstanding the fact that the city of Atlanta is at a greater distance from said shipping point, and there is no water competition.

Your petitioners say that, in their opinion, the rates of freight into the towns and stations on said railroad in the State of Georgia, as aforesaid, were unreasonable and discriminating in their nature, and your petitioners, as a commission, called the attention of the officials of the said Georgia

Railroad to the fact and urged upon them the propriety of changing such rate, but the said officials refused and declined to change the same, and continued and still continue to charge and collect the aforesaid rates of freight to the towns and stations as aforesaid.

Whereupon petitioners, as the railroad commission of the State of Georgia, come and present the facts as aforesaid, and appeal to the Interstate Commerce Commission for relief, and aver and charge that the aforesaid through rate of freight into the State of Georgia and to the different towns and stations of the Georgia Railroad, so made and charged and collected by the carriers, as aforesaid, is unreasonable and discriminating in its nature, and is in direct violation of section 4 of the act of Congress entitled "an act to regulate commerce."

Wherefore petitioners pray that the defendants may be required to answer the charge herein, and that, after due hearing and investigation, an order be made commanding the defendants to cease and desist from said violations of the act to regulate commerce, and to such other and further order as the Commission may deem necessary in the premises.

Dated Atlanta, Georgia, October 16, 1891.

L. N. TRAMMELL.
ALLEN FORT.
VIRGIL POWERS.

STATE OF GEORGIA, *Fulton County:*

L. N. Trammell, being duly sworn, says that he is a member of the Georgia railroad commission, the complainants in this proceeding, and that the matters set forth in the foregoing petition are true, as he verily believes.

L. N. TRAMMELL.

Subscribed and sworn to before me this 16th day of October, 1891.

[L. S.] BEN. J. DAVIS,
Notary Public, Fulton County.

11 EXHIBIT B.

12 *Interstate Commerce Commission.*

THE GEORGIA RAILROAD COMMISSION
against
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILROAD COMPANY, THE GEORGIA RAILROAD AND BANKING COMPANY, et al.

The joint answer of the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, the two last-named companies being lessees of the Georgia Railroad, to the petition filed before the Interstate Commerce Commission by L. N. Trammell, Allen Fort, and Virgil Powers, composing the railroad commission of Georgia, against the Clyde Steamship Company, these respondents, and others.

I. Respondents admit that petitioners compose and constitute the railroad commission of the State of Georgia; but whether said commission has been duly or legally created by the laws of the State of

Georgia, and as to what are the duties of said commission under the laws of said State, respondents prefer that the laws be allowed to speak for themselves.

II. Respondent, the Georgia Railroad and Banking Company, is the owner of what is known as the Georgia Railroad, but several years ago it leased said railroad for a long term of years, not yet expired; and its corespondents, the Louisville and Nashville Railroad Company and the Central Railroad and Banking Company of Georgia, are jointly the assignees of the original lessee of said Georgia Railroad, and operate the same.

Respondent, the Georgia Railroad and Banking Company, is not, therefore, a common carrier, and does not participate in any of the rates of traffic referred to in said petition.

III. Respondents, the Louisville and Nashville Railroad Company and the Central Railroad and Banking Company of Georgia, as joint lessees of said Georgia Railroad, are common carriers, and operate said Georgia Railroad; and, as such lessees, together with some of the other defendants named in said petition, they are engaged in the transportation of passengers and property, partly by water and partly by railroad, between Eastern points, to wit, New York, Boston, and Philadelphia, and points in the State of Georgia; but these respondents are not under any common control, management, or arrangement with said other defendants for the continuous carriage or shipment of passengers or property.

13 IV. It is true that respondents, the Louisville and Nashville Railroad Company and the Central Railroad and Banking Company of Georgia, as lessees of said Georgia Railroad, have, together with their connections, made and fixed, and have heretofore, and do now, charge, collect, and receive from the people of the State of Georgia the following-named rates for tariff for through freight shipped and transported by them from the city of New York, in the State of New York, to the termini of, and stations on, the Georgia Railroad, in the State of Georgia, to wit, as shown in Schedule A, hereto filed and made part hereof.

V. Respondents deny that the transportation of like kind of through freight is done under substantially similar circumstances and conditions between New York, Philadelphia, etc., and Atlanta, as is the transportation done between New York, Philadelphia, etc., and the other stations on the Georgia Railroad, mentioned in the petition. On the contrary, respondents aver that the transportation of freight between New York, Philadelphia, etc., and Atlanta is controlled directly by active competition with rival lines; whereas transportation between New York, Philadelphia, etc., and the other stations on the Georgia Railroad, mentioned in the petition, is only indirectly affected by said competition at Atlanta.

VI. Respondents admit that the city of Augusta, in the State of Georgia, is the eastern terminus of the Georgia Railroad, and that the city of Atlanta, in said State, is the western terminus of said railroad, and that said cities are distant from each other 171 miles.

These respondents admit that the other stations on the Georgia Railroad, mentioned in said petition, are distant, respectively, from Atlanta and Augusta as stated in said petition.

Respondents admit that the rates of freight charged, collected, and received by them for freight transportation by continuous carriage from the city of New York and other eastern points to the other stations on the

Georgia Railroad, mentioned in the petition, are more and greater on each class than the amount charged and received for freight to the city of Atlanta, which is a greater distance from the city of New York and other eastern points.

It is true that there is no water competition directly at Atlanta, but there is fierce, active competition by railroads at that point, and some of those railroads are not subject to the control of the Interstate Commerce Commission.

VII. Respondents deny that the rates of freight to any of the towns or stations on the said Georgia Railroad, in the State of Georgia, are unreasonable or discriminative in their nature. On the contrary, respondents aver that all of said rates are fair, equal, and open to all, and that they do not discriminate against any person or place.

It is true that petitioners did call the attention of the officials operating the Georgia Railroad to, and urged upon them the propriety of changing said rates, but after the fullest investigation and most
14 careful consideration, said officials respectfully declined to change said rates, and continued, and still continue, to charge and collect the same, because, as stated above, they believed said rates to be fair, just, and undiscriminating in their character.

ED. BAXTER,
JOS. B. CUMMING,
Solicitors for Respondents.

STATE OF GEORGIA, *County of Richmond:*

Charles H. Phinizy, beirg duly sworn, says that he is the president of the Georgia Railroad and Banking Company, and acting as general manager of the Georgia Railroad, appointed by the Louisville and Nashville Railroad Company and the Central Railroad and Banking Company of Georgia, its lessees; that he is in charge of the operations of the said Georgia Railroad, and that the matters set forth in the foregoing answer are true, as he verily believes.

C. H. PHINIZY.

Subscribed and sworn to before me this 21st day of November, 1891.
[SEAL.]
WM. LYON MARTIN,
Notary Public, Richmond County, Ga.

SCHEDULE A.

Through rates of freight from New York, Philadelphia, etc., via Charleston, to Georgia Railroad stations.

	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	54	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	61	43	42	67	85	84
Social Circle	144	125	109	90	72	57	4	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	48	43	69	87	86
Conyers	138	119	105	90	74	59	47	59	44½	43½	70	88	87½
Stone Mountain	132	114	101	85	71	58	45	57	46	44	69	80	89½
Atlanta	114	98	86	73	60	49	36	48	40	39	58	68	78

The figures 1, 2, 3, etc., and the letters A, B, C, etc., refer to classes of freight known as first class, second class, etc., and Class A, Class B, and C, and the figures in the lines opposite the name of the town or station mean so much in cents, as expressed by said figures, on the hundred pounds of freight of each class.

15 EXHIBIT C.

16 *The United States of America.—Interstate Commerce Commission.*

THE GEORGIA RAILROAD COMMISSION
against
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILROAD COMPANY, The Georgia Railroad and Banking Company, et al. } Answer.

The answer of the South Carolina Railway Company, by Daniel H. Chamberlain, receiver of said company, to the petition filed before the Interstate Commerce Commission by L. W. Trammell, Allen Fort, and Virgil Powers, composing the railroad commission of Georgia, against the Clyde Steamship Company, this respondent, and others.

I. This respondent says that the South Carolina Railway Company, which is an entirely distinct corporation from the South Carolina Railroad Company, referred to in the petition, is a corporation under the laws of the State of South Carolina, being the purchaser of the property and franchises of said South Carolina Railroad Company, and under the order of the circuit court of the United States for the district of South Carolina, sitting in equity in the case of F. W. Bound vs. The South Carolina Railway Company and others, bearing date the 7th October, 1889. This respondent was appointed receiver of the said railway company, and is now operating the same under the order of said court.

II. This respondent admits that petitioners compose the railroad commission of the State of Georgia, but as to whether said commission has been duly or legally created by the laws of the State of Georgia, and as to what are the duties of said commission under the laws of said State, this respondent prefers that said laws should speak for themselves.

III. This respondent admits that he operates the said South Carolina Railway Company as a common carrier, and that with some of the other defendants named in the petition he is engaged in the transportation of freights and passengers and property, partly by water and partly by railroad, between Eastern points, to wit, New York, Boston, and Philadelphia, and points in the State of Georgia, but this respondent road is not under any common control, management, or arrangement with said other defendants for the continuous carriage or shipment of passengers or property.

IV. It is true that this respondent, together with the connections of the road managed by him, has made and fixed, and has heretofore
17 made and fixed, the following-named rates per tariff for through freight shipped and transported from the city of New York to the termini of and stations on the Georgia Railroad in the State of Georgia, as shown in Schedule A, filed and made a part hereof, a portion of which rates have been paid to this respondent for such transportation.

V. This respondent denies that the transportation of like kind of through freight is done under substantially similar circumstances and conditions between New York, Philadelphia, etc., and Atlanta as is the transportation done between New York, Philadelphia, etc., and the other stations on the Georgia Railroad mentioned in the petition. On the contrary, this respondent avers that the transportation of freight between

New York, Philadelphia, etc., and Atlanta is controlled directly by active competition with rival lines; whereas transportation between New York, Philadelphia, etc., and the other stations on the Georgia Railroad mentioned in the petition, is only indirectly affected by said competition at Atlanta.

VI. This respondent admits that the city of Augusta, in the State of Georgia, is the eastern terminus of the Georgia Railroad, and that the city of Atlanta, in said State, is the western terminus of said railroad, and that said cities are distant from each other 171 miles. This respondent admits that the other stations on the Georgia Railroad, mentioned in said petition, are distant, respectively, from Atlanta and Augusta as stated in said petition. This respondent admits that the rates of freight charged, collected, and received for freight transportation by continuous carriage from the city of New York and other Eastern points to the other stations on the Georgia Railroad, mentioned in the petition, are more and greater in each class than the amount charged and received for freight to the city of Atlanta, which is a greater distance from the city of New York and other Eastern points.

It is true that there is no water competition directly at Atlanta, but there is fierce, active competition by railroads at that point, and some of those railroads are not subject to the control of the Interstate Commerce Commission.

VII. This respondent denies that the rates of freight to any of the towns or stations on the said Georgia Railroad in the State of Georgia are unreasonable and discriminating in their nature. On the contrary, respondent avers that all of said rates are fair, equal, and open to all, and that they do not discriminate against any person or place. And this respondent has no knowledge or information except as derived from said petition as to any demand having been made upon said Georgia Railroad for a change in said rates.

SOUTH CAROLINA RAILWAY COMPANY,
By D. H. CHAMBERLAIN,
Receiver.

18 SCHEDULE A.

Through rates of freight from New York, Philadelphia, etc., via Charleston, to Georgia railroad stations.

	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	54	45	59	42½	41	65	83	82½
Madison	143	123	109	94	77	62	49	61	45	43½	55	89	88
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	93	76	61	48	60	48	46½	74	88	94
Conyers	138	119	105	90	74	60	47	59	47½	46	72	85	93
Stone Mountain	133	114	101	85	71	58	45	57	46	44½	69	80	90½
Atlanta	114	98	86	73	60	49	36	48	40	39	58	68	78

The figures 1, 2, 3, etc., and the letters A, B, C, etc., refer to classes of freight known as first-class, second-class, etc., and class A, class B, and C, and the figures in the lines opposite the name of the town or station mean so much in cents as expressed by said figures, on the hundred pounds of freight of each class.

THE STATE OF SOUTH CAROLINA, *County of* .

Daniel H. Chamberlain, being duly sworn, says that he is receiver of the South Carolina Railway Company; that he is in charge of operations

of the said South Carolina Railway Company, and that the matters set forth in the foregoing answer are true, as he verily believes.

DANIEL H. CHAMBERLAIN.

Subscribed and sworn to before me this 1st day of December, 1891.

J. HAGOOD,
Notary Public for South Carolina.

19 EXHIBIT D.

20 [Richmond and Danville Railroad Company, office of general solicitor, Washington, D. C.]

Interstate Commerce Commission.

L. N. TRAMMELL, ALLEN FORT, AND VIRGIL POWERS, Railroad Commissioners of Georgia,
vs.
THE CLYDE STEAMSHIP COMPANY; THE SOUTH CAROLINA Railroad Company; The Louisville and Nashville Railroad Company, and The Central Railroad and Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond and Danville Railroad Company and The Georgia Pacific Railway Company, lessees of The Central Railroad of Georgia.

The answer of The Richmond and Danville Railroad Company in its own behalf and of The Georgia Pacific Railway Company, respondents as aforesaid.

The Richmond and Danville Railroad Company in its own behalf, and in behalf of The Georgia Pacific Railway, of which it is the lessee, without waiving and specially reserving all rights of objection and exception legally inuring to it in this matter, hereby makes answer to so much and such parts of the petition of the said complainants as it is advised it is necessary and material for it to answer, and says:

First. That the said Georgia Pacific Railway Company is not a proper party respondent to said petition and complaint, because it is not true, as therein alleged, that at the time of the filing thereof the said The Georgia Pacific Railway Company was "engaged in the transportation of passengers and freight, partly by water and partly by railroad, between Eastern points, to wit: New York, Boston, Philadelphia, and points in the State of Georgia," under a common control, management, or arrangement for continuous carriage or shipment with its corespondents herein, and by reason whereof is "subject to the act to regulate commerce," or to the jurisdiction of the Interstate Commerce Commission; and it is denied that the said petitioners, complainants, have any lawful right to require or compel the said the Georgia Pacific Railway Company to appear and answer the charges made in said petition before the said honorable Commission, or that the said Commission has any authority or jurisdiction
21 to require it so to do, or investigate the same and make any order in respect thereof which may be, or be intended to be, effective against or obligatory upon the said The Georgia Pacific Railway Company,

and that by reason whereof the said railway company has good right to ask and insist, and hereby does ask and insist, that, as to it, the said petition be forthwith dismissed.

Second. That it is true, as alleged in said petition, that at and before the time of the filing of thereof the said Georgia Pacific Railway and all the railroad and other property and rights ("except mineral lands not necessary for the operation of said railroad") were duly leased to the said The Richmond and Danville Railroad Company, which said lease was at said time and thence hitherto and now is in full force and effect, and that said lease demises and conveys to the said lessee company "the sole and exclusive right, power, and authority to hold, occupy, use, enjoy, control, manage, and operate the same" (meaning the said railroad, property, and rights of the said The Georgia Pacific Railway Company), "and to regulate, fix, vary, demand, collect, receive, and dispose of all and every the rates, tolls, revenues, and charges to accrue thereon and therefrom," whereby, and by reason whereof, it is manifest, and now here averred to be the fact, that the said The Georgia Pacific Railway Company is not and can not be guilty of any of the said charges made and contained in said petition nor amenable to any investigation or order respecting the same.

Third. That each and every allegation in the said petition made and contained charging the said The Georgia Pacific Railway Company with the commission of any act or acts in violation of the provisions of the said act of Congress entitled "An act to regulate commerce," is hereby denied.

Fourth. That paragraph second and so much of paragraph third as is repetitive thereof in said petition contained is denied, except it is admitted that the said respondents, others than the said The Georgia Pacific Railway Company and the said The Central Railroad Company of Georgia, are common carriers.

Fifth. That so much of paragraph third of said petition as charges, or is intended to charge, that "the rate for tariff for through freight shipped and transported from the city of New York, in the State of New York, to the termini of and stations on the Georgia Railroad, in the State of Georgia," as set forth and scheduled in said paragraph, are "made and fixed under a common control, management, or arrangement for continuous carriage," to which either of the respondents hereby answering is a party, or in which they or either of them has any voice or vote, is hereby denied, and on the contrary it is averred that neither of these said respondents make, fix, or have any power or authority over said rates, nor to control, alter, modify, or interfere with the same.

Sixth. That each and every allegation in the said petition made and contained charging the said respondents hereby answering, either
22 jointly or severally, or intended so to charge, with any act or acts in violation of the provisions of the act of Congress entitled "An act to regulate Congress" is denied.

Wherefore the said respondents hereby answering pray that the said petition as to them and each of them be dismissed.

THE RICHMOND AND DANVILLE RAILROAD COMPANY,
For itself and for The Georgia Pacific Railway Company.

By JAS. T. WORTHINGTON, *General Solicitor.*

STATE OF GEORGIA, *City of Atlanta, ss:*

Sol. Haas, being first duly sworn, says that he is the traffic manager of The Richmond and Danville Railroad Company, making the foregoing answer, and that the matters therein set forth are true as he verily believes.

SOL. HAAS,
Traffic Manager.

Sworn to and subscribed before me this 10th day of December, 1891.

[SEAL.] CHAS. P. LEE,
Notary Public.

23 EXHIBIT E.

24 *Interstate Commerce Commission.*

BY THE GEORGIA RAILROAD COMMISSION
against
THE CLYDE STEAMSHIP COMPANY, THE South Carolina Railroad Company, The Georgia Railroad and Banking Company, et al.
Answer of The Central Railroad of Georgia.

Complaint for violation of section 4 of an act to regulate commerce.

The Central Railroad of Georgia, one of the above-named respondents, for its separate answer to the complaint herein (without waiving and specially reserving all rights of exception and objection thereto) respectfully says:

First. The respondent admits that petitioners compose and constitute what is known as the railroad commission of the State of Georgia. But whether said commission has been duly and legally created by the laws of the State of Georgia; that they possess the powers and privileges claimed for them in their complaint, or that they have any personal or pecuniary interest in the matter therein stated, this respondent does not know, does not admit, and demands that the same be proved.

This respondent most emphatically denies that said Georgia railroad commission has any right or authority for complaining in the matter of the said company before the honorable Interstate Commerce Commission, or of making this respondent a party to said proceeding. It further denies that said complaint is made for the sole interest of the public. On the contrary, this respondent affirms that the granting of the various requests would be detrimental to the public interest.

Second. That it denies each, every, and any allegation in said complaint charging it with any act or acts in violation of the act of Congress entitled "An act to regulate commerce," approved February 4, 1887, and amended March 2, 1889.

Third. That it denies each, every, and any other charge or allegation against it made or contained in said complaint.

Wherefore this respondent respectfully prays that the said complaint may be dismissed as to it.

THE CENTRAL RAILROAD OF GEORGIA,
By THOS. COBB JACKSON,
Counsel.

25 STATE OF GEORGIA, *City of Atlanta, ss:*

Sol. Haas, being first duly sworn, says that he is the traffic manager of the Central Railroad of Georgia, the respondent making the foregoing answer, and that the same is true as he is informed and believes.

SOL. HAAS, *Traffic Manager.*

Subscribed and sworn to before me this twenty-third day of March, 1892.

[SEAL.] A. A. MEYER,
Notary Public in and for the County of Fulton, Ga.

27 EXHIBIT F.

28 [Louisville and Nashville Railroad Company.]

OFFICE OF DISTRICT ATTORNEY,
Nashville, Tenn., September 3, 1892.

Ga. R. R. Commission vs. W. & A. and L. & N. R. R. Cos. et al.—7897.
Ga. R. R. Commission vs. Clyde S. S. Co., L. and N. R. R. et al.—7894.
Ga. R. R. Commission vs. Clyde S. S. Co., So. Car. Rd. et al.—7979.
Ga. R. R. Commission vs. L. & N. and N. C. & St. L. Ry. et al.—7980.
Ga. R. R. Commission vs. So. Car. R. R. and L. & N. R. R. et al.—7981.

EDW. A. MOSELEY, Esq.,
Secretary Interstate Commerce Commission,
Washington, D. C.

DEAR SIR: In reply to your telegram of 24th ultimo.

These cases involve the same question as the Social Circle case, which has been prepared for trial, with the hope that it can be heard at the approaching term of the United States Supreme Court. Mr. Safford writes me that his health is such that he can not argue the Social Circle case for several weeks, but I am in hopes that he will recover in time to argue that case so as to get it heard at the approaching term of the United States Supreme Court. The decision of that case by the Supreme Court will virtually settle all of these cases, and I respectfully request that the Commission continue these cases, say for ninety days, or until we can see if the Social Circle case can be heard by the Supreme Court at the approaching term.

Will you kindly present this application for me?

Yours, truly,

ED. BAXTER, *District Attorney.*

29 EXHIBIT G.

30 At a general session of the Interstate Commerce Commission held at its office in Washington, D. C., on the 19th day of October, A. D. 1892. Present: Hon. Wheelock G. Veazey, Hon. Martin A. Knapp, Hon. James W. McDill, Commissioners.

THE GEORGIA RAILROAD COMMISSION
vs.
THE LOUISVILLE AND NASHVILLE RAILROAD COMPANY et al. and six other cases.

On reading the application of Edward Baxter, esq., counsel for the above-named defendant, for postponement of the decision of these cases for ninety days, or until after the determination of the so-called Social Circle case, entitled upon the record, "Interstate Commerce Commision against The Cincinnati, New Orleans and Texas Pacific Railway Company et al.," and now pending in the United States circuit court for the northern district of Georgia, it is ordered that said application be and is hereby denied.

71 EXHIBIT I.

72 At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 11th day of November, A. D. 1892. Present: Hon. William R. Morrison, chairman; Hon. Wheelock G. Veazey, Hon. Martin A. Knapp, Hon. James W. McDill, Hon. Judson C. Clements, Commissioners.

L. N. TRAMMELL, ALLEN FORT, AND VIRGIL POWERS, constituting and composing the Railroad Commission of Georgia,
v.
THE CLYDE STEAMSHIP COMPANY; THE SOUTH CAROLINA RAILWAY COMPANY; The Georgia Railroad and Banking Company; The Louisville and Nashville Railroad Company, and The Central Railroad and Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond and Danville Railroad Company, and the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia. — No. 314.

This complaint being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved in this proceeding having been had, and the Commission having, on the date hereof, made and filed a report and opinion containing its findings of fact and conclusions thereon, said report and opinion is hereby referred to and made a part of this order; and the Commission having, as appears by said report and opinion, found and decided, among other things, that the common carriers operating the Clyde Steamship Line, the South Carolina Railway, and the Georgia Railroad are not justified under the fourth section of the act to regulate commerce in charging or receiving more in the aggregate for the transportation of a like kind of property from New York and other North Atlantic ports for the shorter distance to Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain, in the State of Georgia, than for the longer distance over the same line in the same direction to Atlanta, in the State of Georgia.

It is ordered and adjudged, that the Clyde Steamship Company, the South Carolina Railway Company, and D. H. Chamberlain, the
73 receiver thereof, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, as lessees of the Georgia Railroad, H. M. Comer, receiver of the Central Railroad and Banking Company of Georgia, the Richmond and Danville Railroad Company, and the Georgia Pacific Railway Company, as lessees of the Central Railroad of Georgia, and F. W. Huidekoper and Reuben Foster, receivers of the Richmond and Danville Railroad Company; that is to say, such of them as are operating, as common carriers, the Clyde Steamship Line, the South Carolina Railway, and the Georgia Railroad, respectively, do wholly cease and desist, within twenty days after service of a copy of this order, from charging or receiving any greater compensation in the aggregate for the transportation of a like kind of property from New York and other North Atlantic ports for the shorter distance to Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain, in the State of Georgia, than for the longer distance over the same line in the same direction to Atlanta, in the State of Georgia, the shorter being included within the longer distance; or, that said common carriers do, within the time above specified, make and file with this Commission an application or applications, as may be required and as provided in the proviso clause of the fourth section of the act to regulate commerce, for relief from the operation of that section in respect to the prohibition therein contained against charging or receiving any greater compensation in the aggregate for the transportation of like kind of property from New York and other North Atlantic ports to the shorter distance points aforesaid than for such transportation over the same line in the same direction for the longer distance to Atlanta aforesaid, and show cause within sixty days after the service of this order why such application or applications for relief should be granted, and upon such application or applications the evidence already taken herein may be used. In case said common carriers elect to apply for relief as hereby provided, and such application for relief, after investigation by the Commission, be denied, then the order to cease and desist as hereinabove set forth shall stand, and said common carriers will be required to comply therewith within twenty days after service of the order denying said application.

It is further ordered, that a notice embodying this order be forthwith sent to each of said common carriers, together with a copy of the report and opinion of the Commission herein, in conformity with the fifteenth section of the act to regulate commerce.

OFFICE OF THE INTERSTATE COMMERCE COMMISSION,
Washington, D. C.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, hereby certify that the foregoing exhibits, nine in number,
74 and marked A to I, both inclusive, are correct copies of the originals thereof on file among the records of the Interstate Commerce Commission.

In testimony whereof I hereunto set my hand and affix the seal of the

said Interstate Commerce Commission, at the city of Washington, in the District of Columbia, this 16th day of May, 1893.

[L. S.] EDW. A. MOSELEY,
Secretary of the Interstate Commerce Commission.

A true copy of the petition and exhibits.

[L. S.] (Signed) EDW. A. MOSELEY,
Secretary of the Interstate Commerce Commission.

75 *Order for defendants to show cause, &c., and for service.*

In the circuit court of the United States for the northern district of Georgia, March term, 1893.

INTERSTATE COMMERCE COMMISSION *versus* THE CLYDE STEAMSHIP COMPANY; THE SOUTH Carolina Railway Company; The Georgia Railroad & Banking Company; The Louisville & Nashville Railroad Company, and The Central Railroad and Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond & Danville Railroad Company and The Georgia Pacific Railway Company, lessees of The Central Railroad of Georgia; D. H. Chamberlain, receiver; H. M. Comer, receiver, and Reuben Foster and F. W. Huidekoper, receivers.	No. 525. Petition under interstate-commerce act. Order of notice to defendants. In equity.

These proceedings having been filed under the act to regulate commerce, approved February 4, 1887, as amended March 2, 1889, February 10, 1891, and February 11, 1893.

It is ordered and directed by the court that the defendant corporations appear before the United States circuit court for the northern district of Georgia, at the court room in Atlanta, Georgia, on the 10th day of July, 1893, at 10 o'clock a. m., to answer such proceedings and to show cause why the prayer of petition should not be granted; and it is further ordered that a copy of this order be served on each of the corporations of this State by serving the principal officer of the same, and that the nonresident defendant corporations be served by the clerk of this court mailing copy of this order in a registered letter, addressed to the
76 president or chief officer at the principal office of such corporation set out in said petition, and such corporations as are in the hands of a receiver in the same manner, or service may be acknowledged by counsel representing such defendants; and it being represented to the court that copies of the petition or bill are printed and convenient (without holding the same to be necessary and proper notice under act above referred to) the clerk is directed to attach a copy of said petition or bill to each of said orders or notices, and let them be served therewith.

In open court this 19 day of June, 1893.

WM. T. NEWMAN,
U. S. Judge.

Service.

I hereby certify that I have this 20 day of June, 1893, mailed a certified copy of the within order and a copy of the petition in this case in registered letters as follows:

To the president or chief officer of Clyde Steamship Co., Charleston, S. C.

To the president or chief officer of South Carolina Railway Company, Charleston, S. C.

To the president or chief officer of Louisville & Nashville R. R. Co., Louisville, Ky.

To the president or chief officer of Richmond & Danville R. R. Co., Washington, D. C.

To the president or chief officer of Georgia Pacific Ry. Co., Birmingham, Ala.

D. H. Chamberlain, receiver South Carolina Railway Co., Charleston, S. C.

Reuben Foster & F. W. Huidekoper, receivers Rich'd & Danv R. R. Co., Washington, D. C.

O. C. FULLER, *Clerk.*

Service of duplicate original on H. M. Comer, president, &c.

I certify that on the 22nd day of June, 1893, at Savannah, in my district, I personally served a copy of the within petition and order on H. M. Comer, president of the C. R. R. and Banking Co. of Ga., and on H. M. Comer, and at the same time exhibiting this, the original.

Dated Savannah, Ga., June 22nd, 1893.

Return of FRANK LEVERETT, *U. S. Marshal.*
By J. C. HEYWARD, *Deputy.*

Filing: Returned and filed in office June 23, 1893. O. C. Fuller, clerk.

77 *Order allowing defendants thirty days to answer.*

In the circuit court of the United States, for the northern district of Georgia.

INTERSTATE COMMERCE COMMISSION
vs.
CLYDE STEAMSHIP COMPANY AND SOUTH CAROLINA Railway et al. } No. 525.

By consent of parties it is ordered, in the above-stated case, that the defendants, and each of them therein named be, and they are hereby, allowed thirty days from this date to answer all proceedings in the above-stated case, with all of the rights of pleading to said petitions now enjoyed by said defendants.

It is further ordered that the judge of this court may during vacation

by order direct the method in which testimony may be taken therein, and appoint an examiner or other officer to take such testimony.

In open court this 10th day of July, 1893.

WM. T. NEWMAN, *U. S. Judge.*

Filing: Filed in clerk's office 10 day of July, 1893.

O. C. FULLER, *Clerk,*
By GEO. S. BARNARD, *Deputy Clerk.*

Answer of the Georgia Railroad and others.

The joint and several answer of the Georgia Railroad and Banking Company; the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia, sued as lessees of the Georgia Railroad, to the petition filed by the Interstate Commerce Commission against the Clyde Steamship Company, these respondents, the Richmond and Danville Railroad Company, and the Georgia Pacific Railway Company, lessees of the Central Railroad of Georgia; D. H. Chamberlain, receiver; H. M. Comer, receiver, and Reuben Foster and F. W. Huidekoper, receivers; in the circuit court of the United States for the northern district of Georgia, in equity, No. 525, on the rule docket of said court.

78 I. Respondents admit that the Clyde Steamship Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of South Carolina, and that it has its principal office at Charleston in said State; that the South Carolina Railway Company is a corporation created, chartered, and existing under by virtue of the laws of the State of South Carolina; that it has its principal office at Charleston in said State, and that defendant D. H. Chamberlain is the receiver thereof; that the Georgia Railroad and Banking Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia; that it has its principal office at Augusta in said State; that the Louisville and Nashville Railroad Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Kentucky, and that it has its principal office at Louisville in said State; that the Central Railroad and Banking Company of Georgia is a corporation created, chartered, and existing under and by virtue of the laws of the State of Georgia; that it has its principal office at Savannah in said State, and that defendant H. M. Comer is the receiver thereof; that the Richmond and Danville Railroad Company is a coporation created, chartered, and existing under and by virtue of the laws of the State of Virginia; that it has its principal office at Washington in the District of Columbia, and that the defendants Reuben Foster and F. W. Huidekoper are the receivers thereof; that the Georgia Pacific Railway Company is a corporation created, chartered, and existing under and by virtue of the laws of the State of Alabama, and that it has its principal office at Birmingham in said State.

II. Respondent, the Georgia Railroad and Banking Company, is the owner of what is known as the Georgia Railroad, but several years ago it leased said railroad for a long term of years not yet expired; and its corespondents, the Louisville and Nashville Railroad Company and the Central Railroad and Banking Company of Georgia, are jointly the

assignees of the original lessee of said Georgia Railroad, and they operate the same.

Respondent, the Georgia Railroad and Banking Company, is not therefore a common carrier, and does not participate in any of the rates of traffic referred to in said petition.

III. Respondents admit that, with the exception of the Georgia Railroad and Banking Company, the corporate defendants were on October 16th, 1891, and still are, respectively, common carriers engaged in the transportation of persons and property over their respective roads. That some of them are so engaged wholly by water; that some of them
79 are so engaged wholly by rail, and that some of them are so engaged partly by rail and partly by water.

Respondents are not under any common control or management with any of their codefendants, for continuous carriage or shipment, except that, as stated above, the Louisville and Nashville Railroad Company and the Central Railroad and Banking Company of Georgia are the assignees of the lessee of the Georgia Railroad.

Neither are respondents under any common arrangement with their codefendants for continuous carriage or shipment, except that the Clyde Steamship Company receives shipments of freight at New York destined to Atlanta, Ga., for which it issues its through bills of lading, at certain agreed rates, which bills of lading are protected by the Georgia Railroad, and certain agreed proportions of said through rates are accepted by said Georgia Railroad as its compensation for carrying such shipments from Augusta to Atlanta. But respondents have at all times declined to form through rates, or to agree upon through rates to or from the local stations of the Georgia Railroad; and, as to all of such local stations, respondents are under no common control, management, or arrangement for continuous carriage or shipment.

IV. Respondents deny that they were duly impleaded in any kind of a controversy before the Interstate Commerce Commission on October 22nd, 1891, though it is true that on or about October 16th, 1891, L. N. Trammell, Allen Fort, and Virgil Powers, constituting and composing the railroad commission of Georgia, filed a petition before the Interstate Commerce Commission, a copy of which petition is filed as Exhibit "A" to the petition in this case. Whether said railroad commission of the State of Georgia has been duly or legally created by the laws of the State of Georgia, and as to what are the duties of said commission under the laws of said State, these respondents prefer that said laws shall speak for themselves.

V. Respondents admit that a copy of said petition, duly attested by the secretary of said Interstate Commerce Commission, under the seal of said Commission, was duly forwarded by said Commission to each of respondents, and respondents suppose that similar copies were forwarded to each of the defendants named therein.

VI. Respondents admit that on or about the 30th day of November, 1891, the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad Company, and the Central Railroad and Banking Company of Georgia filed their joint answer to said petition
80 before the Interstate Commerce Commission, and that Exhibit "B" to the petition filed in this case is a correct copy of said answer.

VII. Respondents admit that on or about the 4th day of December, 1891, the South Carolina Railway Company, by Daniel H. Chamberlain, receiver thereof, filed its answer to said petition before said Commission, and that Exhibit "C" to the petition filed in this case is a correct copy of said answer.

VIII. Respondents admit that on or about the 12th day of December, 1891, the Richmond and Danville Railroad Company, in its own behalf, and on behalf of the Georgia Pacific Railway Company, filed its answer to said petition before said Commission, and that Exhibit "D" to the petition filed in this case is a correct copy of said answer.

IX. Respondents admit that on or about the 25th day of March, 1892, the Central Railroad of Georgia filed its answer to said petition before said Commission, and that Exhibit "E" to the petition filed in this case is a correct copy of said answer.

X. Respondents admit that the matters complained of in said petition filed by L. N. Trammell, Allen Fort, and Virgil Powers, constituting the railroad commission of the State of Georgia, came on to be heard before said Interstate Commerce Commission, at a special session thereof, held at Atlanta, Georgia, on or about the 24th day of March, 1892, whereof respondents had due and sufficient notice.

XI. Respondents deny that it was made to appear that respondents had, in any respect, violated any of the provisions of the act to regulate commerce. Respondents deny that said Interstate Commerce Commission duly or legally determined the matters or things in controversy between said parties. Respondents admit that said Commission, on or about the 11th day of November, 1892, made a report in writing in respect thereof, and that Exhibit "H" to the petition filed in this case is a correct copy of said report.

Respondents admit that said report included certain alleged findings of fact, upon which certain alleged conclusions of said Commission were based.

XII. Respondents admit that said Commission formulated an order and notice in relation to the matters and things stated and charged in said petition filed before said Commission; but respondents deny that said order and notice was duly made, or that it was made agreeably to the requirements of the statute in such cases made and provided, or that it now remains in force or effect; though respondents admit that said order and notice has never been vacated or set aside, altered, modified, or changed in any respect by said Commission, and they admit
81 that Exhibit "I" to the petition filed in this case is a correct copy of said order and notice.

XIII. Respondents admit that they were furnished with properly authenticated copies of said report and order and notice, on or about the 11th day of November, 1892.

XIV. Respondents deny that they or either of them have been unmindful of their duty or of any lawful decision or determination of said Commission, or that they have, through their officers, servants, or attorneys, or otherwise, disregarded or set at naught the lawful authority of said Commission; or that they have willfully or knowingly, or at all, violated or disobeyed any lawful order or notice of said Commission; or that they have neglected or refused to comply with any lawful order of

said Commission at Atlanta, Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain, in the State of Georgia, or elsewhere. Respondents admit that neither of them have applied to said Commission for relief from the operation of the fourth section of the act to regulate commerce, and the reason that no such application has been made is that they have never done or proposed to do anything which required release from the operation of that section.

XV. Respondents are advised and insist that said order and notice made and issued by said Commission was and is unlawful and void, for the following, among other, reasons:

First. The transportation of property from New York and other North Atlantic ports to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, in the State of Georgia, is not conducted under substantially similar circumstances and conditions with the transportation of property from New York and other North Atlantic ports to Atlanta, Ga.

Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are local stations on the Georgia Railroad.

There is no navigable water course at either of said places. There is no other railroad at either of said places, except at Madison and Social Circle, and there is no competition by either rail or water existing at any of said places which affects the rates in controversy. Freight rates to said places from New York and other North Atlantic ports are combination rates, arrived at by taking the rates from New York and other North Atlantic ports to Atlanta or Augusta, Ga., and adding thereto certain reasonable local rates from Atlanta or Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, respectively. Atlanta or Augusta is selected as the basis for making said combinations of rates according as the through rates to the one or the other of
82 those cities added to local rates will make the lowest combination of rates of said local stations, respectively.

Said local rates are reasonable, and are approved by the railroad commission of the State of Georgia, under an act of the legislature of that State which authorizes said commission to decide upon the reasonableness of such rates.

The through rates from New York and other North Atlantic ports to Atlanta and Augusta, respectively, are fixed by active competition between various lines of transpor'ation, some of which are all rail and some of which are part water and part rail. To Augusta some of the lines are all water.

The Clyde Steamship Company's line of steamers from New York to Charleston and the South Carolina Railway from Charleston to Augusta form one of said part water and part rail lines to Augusta, and those two lines, in connection with the Georgia Railroad, form one of said part water and part rail lines to Atlanta.

It is impossible for those lines to obtain any higher through rates to Augusta or Atlanta, respectively, than are charged by their numerous and powerful competitors.

There is also active competition between the various lines above referred to as running from New York and other North Atlantic ports to Augusta and Atlanta, respectively, and certain other lines running

from Cincinnati and other Ohio and Mississippi River points to Augusta and Atlanta, respectively; said competition being for the carriage to Augusta and Atlanta, respectively, of products similar to those carrried there from New York and other North Atlantic ports.

Said lines running from New York and other North Atlantic ports are forced to accept rates which bear a certain relation to the rates offered on similar products by the lines running from Cincinnati and other Ohio and Mississippi River points to Augusta and Atlanta, respectively.

The Clyde Steamship Company and the South Carolina Railway Co. divide in certain agreed proportions the through rates charged from New York and other Atlantic ports to Augusta, but the Georgia Railroad receives no proportion of said rates to Augusta, as it performs no part of the transportation.

When freight from New York and other North Atlantic ports destined to Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain are tendered to the Clyde Steamship Co. at New York for shipment via Augusta, that company issues its own through bills of lading and guarantees that the total rates to destination shall not exceed the through rates to Augusta added to the local rates of the
83 Georgia Railroad charged on such shipments from Augusta to said points of destination, respectively; but the Clyde Steamship Co., the South Carolina Railway Company, and the Georgia Railroad do not obligate themselves or either of them for the continuous carriage or shipment of such freight beyond their own lines, respectively, nor does the Clyde S. S. Co. nor the So. Carolina Ry. Co. assume to control in any way the local rates which may be charged upon such freights by the Georgia Railroad.

Neither the Clyde S. S. Co. nor the So. Carolina Ry. Co. receive any part of the local rates charged by the Georgia R. R. for transportation from Augusta to Greensboro, Madison, Social Circle, Covington, or Stone Mountain.

It is wholly immaterial to the Clyde S. S. Co. and to the South Carolina Ry. Co. whether freight shipped from New York and other North Atlantic ports via Augusta stops at Augusta or goes forward to Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain.

The Georgia R. R. declines to form a through route or to agree upon through rates to its said local stations from New York and other North Atlantic ports. It receives shipments destined to such stations for the first time at Augusta, and insists upon charging the same rates from Augusta to destination as if said shipments had originated at Augusta. The Georgia R. R. and its said connections east of Augusta charge the highest through rates which competition will allow them to obtain on all freight shipped from New York and other North Atlantic ports via Augusta through to Atlanta, and if they should be forced by decree in this case to raise said rates to Atlanta all such shipments would go by rival lines.

While the proportions which the Georgia Railroad receives of such through rates to Atlanta is small, they are more than the additional cost of such transportation; and therefore it is to the interest of that railroad as well as of the public that it should be allowed to compete for that traffic.

But if said railroad were forced to carry all of its traffic at rates as low as the proportions which it receives from said through rates, it would be impossible for it to earn operating expenses.

If the order made by the Commission in this case should be enforced, the Georgia Railroad would be forced to abandon said through rates to Atlanta and adhere to its present local rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain. Those stations, therefore, would not be benefited in the least, and the only result would be to deprive Atlanta of the benefit of the competition now
84 afforded by the Georgia Railroad, and to deprive the Georgia Railroad of such revenue as it now derives from the Atlanta traffic.

And having fully answered, respondents pray to be hence dismissed, with their reasonable costs.

JOSEPH B. CUMMING,
[L. N. SEAL.] ED. BAXTER,
Solicitor for Respondents, Louisville and Nashville Railroad Company.
By M. H. SMITH, *President.*

Attest:
J. H. ELLIS, *Secretary.*

STATE OF KENTUCKY, *Jefferson County:*

Personally appeared before me, G. W. B. Olmstead, a notary public duly appointed, commissioned, and qualified in and for the State and county aforesaid, M. H. Smith and J. H. Ellis, who are respectively the president and secretary of the Louisville and Nashville Railroad Company, the above-named respondent, and signed the foregoing answer, and affixed thereto the seal of said company as the answer of said company.

Witness my hand and notarial seal of office, at Louisville, Ky., this 8th day of August, 1893.

[SEAL OF N. P.] G. W. B. OLMSTEAD,
Notary Public.

Filing: Filed in clerk's office 10 day of Aug., 1893. O. C. Fuller, clerk.

Answer of the Richmond & Danville Railroad et al.

In the circuit court of the United States for the northern district of Georgia.

INTERSTATE COMMERCE COMMISSION,
vs.
CLYDE STEAMSHIP COMPANY AND OTHERS. } In equity. No. 525.

Joint answer of the Richmond & Danville Railroad Company, the Georgia Pacific Railway Company, and F. W. Huidekoper and Reuben Foster, receivers of the Richmond & Danville Railroad Company.

85 *To the honorable the judges of the circuit court of the United States for the northern district of Georgia:*

These respondents, answering, say:

I. These respondents admit the filing of the petition before the Interstate Commerce Commission by the railroad commission of Georgia as

alleged in the petition herein, and that Exhibit A, annexed to said petition, is a true copy thereof. These respondents also admit that on said 20th day of January, 1892, the lines of the said Central Railroad and Banking Company of Georgia were leased to the respondent The Georgia Pacific Railway Company, and were operated by the respondent The Richmond & Danville Railroad Company; and further admit that said Interstate Commerce Commission did hear the matter as alleged in the petition herein, and did make a report in writing thereon, of which Exhibit J, annexed to said petition, is a true copy, and did thereafterwards issue and duly serve on each of these respondents the order of which Exhibit K, annexed to said petition, is a true copy.

These respondents, however, aver that before the hearing of said matter before the Interstate Commerce Commission, to wit, on the 4th day of March, 1892, the said lines of the Central Railroad and Banking Company of Georgia were, by order of the circuit court of the United States for the southern district of Georgia, placed in the hands of a receiver of said court, and thereupon the said lease of said lines to the respondent The Georgia Pacific Railway Company was surrendered and annulled, and said respondent ceased to have any possession or control of said lines, and the said Richmond & Danville Railroad Company ceased to hold and operate the same, all of which facts were well known to said Interstate Commerce Commission at the time of making their said report.

II. Respectfully answering, these respondents say that the said Richmond and Danville Railroad Company and the Georgia Pacific Railway Company were parties to the said proceedings before the Interstate Commerce Commission only in the character and relation of lessee of the Central Railroad and Banking Company of Georgia, which character and relation to the matters of said proceedings had ceased as aforesaid before the hearing by the Interstate Commerce Commission and the making of its report and order thereon.

That the said report finds no facts relative to the conduct of either of the respondents, The Richmond & Danville Railroad Company or The Georgia Pacific Railway Company, in the transportation as a common carrier of freight or passengers on the lines of railroad operated by
86 either of said respondents at the date of the hearing on which said report is made. That in none of the routes described and mentioned in said report does any railroad then or now operated by either of said respondents form a part.

These respondents respectfully call the attention of the court to the following language on page 4 of said report:

"As to the second of the minor questions whether certain of the defendants, to wit, the Georgia Railroad & Banking Company, the Central Railroad and Banking Company, the Georgia Pacific Railway Company, and the Richmond & Danville Railroad Company, are common carriers controlling rates and operating roads parts of through lines between points of shipment and destination, it seems sufficient to hold generally that only those who are in any degree responsible for transportation charges over the respective roads will be expected to comply with any order for the readjustment of those charges which may hereafter be issued in these proceedings."

These respondents aver that it is not true, as alleged in the petition herein, that these respondents, "unmindful of their duty and the decision

and determination of the said Commission as stated in its report aforesaid, have through their officers, servants, and attorneys wholly disregarded and set at naught the authority of the said Commission in that regard, and have willfully and knowingly violated and disobeyed said order and notice as hereinbefore set forth, hitherto neglected and refused and still do neglect and refuse to comply with the same;" because the said report under the facts found and by its express terms had no application to any line operated either by the Richmond & Danville Railroad Company or the Georgia Pacific Railway Company, and the said order of the Commission based on said report does not apply to either of said respondents.

III. Further answering, these respondents say that said order of the Commission, to enforce which the present proceeding is instituted, is not a legal order to which obedience is due under the act to regulate commerce and the amendments thereof, for the reason, among others, that said order is based upon erroneous findings of fact and law stated in the said report of the Commission.

These respondents specify the following errors:

1. The Commission erred in finding that the shipment to the shorter distance points mentioned in the report were made under an arrangement for continuous carriage or shipment within the provisions of the said act to regulate commerce.

2. The Commission erred in finding that the shipments made to the shorter distance points mentioned in the report were made
87 over the same line as the shipments made to the longer distance points mentioned therein.

3. The Commission erred in finding that competition between carriers does not constitute a circumstance or condition within the meaning of the fourth section of the act to regulate commerce.

4. The Commission erred in finding that the competition between markets does not constitute a circumstance or condition to be considered under the provisions of the fourth section of said act.

Wherefore these respondents, having fully answered, pray that the petition herein be dismissed as to them, and that they be hence dismissed with their costs in this behalf wrongfully incurred.

H. L. Bond, Jr.,
Henry Jackson,
Solicitors for Respondents.

District of Columbia:

Reuben Foster, being duly sworn, deposes and says that he is one of the receivers of the Richmond and Danville Railroad Company, and that the matters and facts stated in the foregoing answer are true, as he verily believes.

Reuben Foster.

Sworn to and subscribed before me this 12 day of August, 1893.

[seal of n. p.] Chas. P. Lee, *Notary Public.*

Filing: Filed in clerk's office 14 day of Aug., 1893. O. C. Fuller, clerk.

* * * * * * *

89 *Stipulation as to deposition of Lee Trammell, H. H. Fitzpatrick, and S. A. Turnell.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad and Banking Company, et al.
In equity, No. 525.

In the above-entitled cause it is stipulated and agreed by the counsel for the complainant and by counsel for the defendants that the depositions of the following-named witnesses for the complainant, to wit, Lee Trammell, H. H. Fitzpatrick, and S. A. Turnell, of Madison, Georgia, may be taken on the foregoing and annexed direct and cross interrogatories, and may be read in evidence on the hearing of said cause, subject to all exceptions as to relevancy and competency. All formal objections are waived. It is further stipulated and agreed that W. R. Mustin,
90 esq., of Madison, Georgia, may act as commissioner in taking said depositions. The issuance of commission to him and formal caption and certificate by him are waived.

L. A. SHAVER,
Counsel for the Interstate Commerce Commission.

ED. BAXTER,
Counsel for Defendants as of Record.

Filing: Filed in clerk's office 12 day of Aug., 1897. O. C. Fuller, clerk, by J. D. Steward, deputy.

Interrogatories to Lee Trammell, H. H. Fitzpatrick, and S. A. Turnell.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad & Banking Company, et al.
In equity, No. 525.

Interrogatories filed in the above-entitled cause on behalf of the complainant therein and to be exhibited to Lee Trammell, H. H. Fitzpatrick, and S. A. Turnell, of Madison, Georgia:

Interrogatory No. 1. What is your name and residence and in what occupation or business are you engaged?

Interrogatory No. 2. If you say you reside at Madison, Ga., state how long that place has been your residence and how long you have been engaged in business there and in what business.

Interrogatory No. 3. State whether merchants of Atlanta, Ga., sell goods and do business at Madison, Greensboro, Social Circle, Covington, Conyers, and Stone Mountain, and also in territory around those points.

Interrogatory No. 4. Name points or localities around or beyond

Madison from Atlanta at which Atlanta merchants sell goods or do business, and state how far such points are from or beyond Madison,
91 and whether goods, in order to reach such points from Atlanta, have to be hauled through Madison and over what roads.

Interrogatory No. 5. State whether merchants of Madison attempt to sell goods and do business at such points in territory around and beyond Madison, and whether in doing so they come in competition with merchants of Atlanta.

Interrogatory No. 6. State whether Madison merchants can successfully compete with Atlanta merchants in selling goods and doing business at Madison and in territory around and beyond Madison.

Interrogatory No. 7. If, in answer to the preceding interrogatory, you state that Madison merchants are placed at a disadvantage in this competition with Atlanta merchants, state what the disadvantage results from.

Interrogatory No. 8. If, in answer to the preceding interrogatory, you say this advantage results from a discrimination in rates in favor of Atlanta and against Madison, give examples of this discrimination in rates in the sale of dry goods, groceries, etc.

Interrogatory No. 9. State how long this discrimination in favor of Atlanta has existed, and what effect, if any, it has had in retarding the growth of Madison.

Interrogatory No. 10. State whether Madison merchants buy their goods from Atlanta or direct from New York and other Eastern cities or other sources of supply, and when goods are brought in New York and other Eastern cities, whether they are shipped to Madison under a through bill of lading, naming a through rate to Madison, and whether goods from New York and other Eastern cities after reaching Charleston are hauled through to Madison without transfer or breakage of bulk in the same cars in which they were originally loaded.

Interrogatory No. 11. State the population and mercantile and manufacturing enterprises of Madison.

92 Interrogatory No. 12. Do transportation rates or charges enter into and affect the prices at which yourself and other Madison merchants can sell goods to consumers in and around Madison?

Interrogatory No. 13. How would a reduction in the rates on goods of all classes from New York and other Eastern cities to Madison, Greensboro, Social Circle, Covington, Conyers, and Stone Mountain, so as to make the rates to those points not higher than the rates to Atlanta, affect the prices at which merchants at Madison, Greensboro, Social Circle, Covington, Conyers, and Stone Mountain could sell goods to their customers? Would such reduction in rates lower or raise such prices?

Interrogatory No. 14. How do prices of goods affect their sale or consumption? Are more goods sold to consumers when goods are cheap or when they are high? What is your opinion and experience in reference to this matter?

Interrogatory No. 15. Will a reduction in the rates on all classes of goods from New York and other Eastern cities to Madison, Greensboro, Social Circle, Covington, Conyers, and Stone Mountain, so as to make the rates to those points not higher than the rates from New York and other Eastern cities to Atlanta, increase or diminish the tonnage of traffic, which will be hauled by the roads to Madison, Greensboro, Social Circle,

Covington, Conyers, and Stone Mountain? Give your reasons for whatever opinion you may express in answer to this interrogatory.

Interrogatory No. 16. What effect, if any, do relatively low or preferential rates to a locality have in increasing the population of such locality and inducing the investment of capital there, and in promoting the prosperity of such locality in other respects?

Interrogatory No. 17. What effect, if any, do relatively high rates to a locality, or rates which discriminate against a locality, have on its prosperity or progress in the respects named in the preceding interrogatory?

Interrogatory No. 18. Do you know or can you set forth any
93 other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

L. A. SHAVER,
Of Counsel for the Complainant.

Cross-examination:
Cross-examination waived.

ED. BAXTER,
Solr. for Defts. as of Record.

Answer of Lee Trammell.

INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP CO., THE GEORGIA Railroad and Banking Co., et al. } In equity. No. 525.

The witness Lee Trammell, being duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

To interrogatory No. 1 he says: My name is Lee Trammell and I reside at Madison, Ga. I am engaged in the dry goods business.

To inty. No. 2 he says: I have lived in Madison, Ga., eleven years, and for the past eight years I have been engaged in the dry goods business in said city.

To inty. No. 3 he says: They do. Merchants of Athens and Milledgeville also sell goods and do business in Madison and in territory around Madison.

To the 4th inty. he says: Atlanta merchants sell goods at Buckhead, seven miles from Madison; at Greensboro, twenty miles from Madison; at Union Point, twenty-seven miles from Madison, and at other points on the Georgia Railroad beyond Madison from Atlanta. These places are on the Georgia Railroad, and goods, in order to reach
94 such points from Atlanta, have to be hauled through Madison over the Georgia Railroad.

To inty. 5th he says: Madison merchants attempt to sell goods and do business at points around and beyond Madison, but owing to high freight rate they are unable to successfully compete with Atlanta merchants.

To inty. 6th he says: They can not successfully compete with Atlanta merchants in selling goods and doing business at Madison, and in territory around and beyond Madison.

To inty. 7th he says: The disadvantage in favor of Atlanta and against Madison results from difference in rate of freight.

To 8th inty. he says: Goods can be shipped from all Eastern and Northern points to Atlanta, and then reshipped to Madison and points around and beyond Madison, at a less rate of freight than Madison have on same class of good shipped from Eastern or Northern points.

The rate of first-class freight from Eastern points through Madison to Atlanta is one dollar and fourteen cents per hundred pounds, but if stopped off at Madison the freight is one dollar and forty-three cents per hundred—the goods reaching Madison over the Georgia Railroad.

Goods can be shipped from all Ohio River points in the West, through Madison via Georgia Railroad to Milledgeville, which is about one hundred miles beyond Madison, at a rate of freight which permits Milledgeville merchants to sell the goods at Madison and points around Madison for less than Madison merchants can deliver goods from Ohio River points at Madison.

To 9th inty. he says: This discrimination has existed ever since I have been at Madison, and it has materially retarded the growth of Madison.

To inty. 10th he says: Madison merchants buy their goods generally direct from New York, and the goods are shipped to Madison under through bill of lading, with through rate named in bill of lading, and after reaching Charleston the goods are hauled through to Madison without transfer or breakage of bulk and in the same cars in which they were originally loaded at Charleston.

95 To 11th inty. he says: Madison has a population of between 2,500 and 3,000, and has fertilizer works making cotton-seed oil, guano, and soap; ice plant, canning factory, variety works, wagon factory, and cotton compress.

To the 12th inty. he says: Transportation rates very materially enter into and affect the prices at which I and other Madison merchants can sell goods to consumers in and around Madison.

To the 13th inty. he says: Lower rates of freight would lower prices of goods, and the merchants of Madison and the places named, with lower freight rate, could sell goods cheaper.

To the 14th inty. he says: Generally more goods are sold when prices are lower than when they are high, and more goods are sold when they are cheap than when they are high. My experience bears me out in this statement.

To the 15th inty. he says: A lower freight rate would allow the merchants of Madison and the places named to sell goods in their own territory, and they would do more business, and necessarily have more goods shipped. A lower freight rate would allow the merchants of the places named to sell goods cheaper, and the lower the prices the more goods are sold generally.

To the 16th inty. he says: In locating business enterprises the freight rate to the locality plays an important part in determining the location. Low freight rates to a locality is calculated to increase the population of the locality and to promote materially the investment of capital there.

To the 17th inty. he says: Rates which discriminate against a locality stagnate business in the locality discriminated against and retard its

growth and progress for the reason that no business enterprise can succeed or be built up where the merchants or manufacturers of the locality can not successfully compete in prices, in their own territory, with outside merchants who sell in their territory, by reason of high freight rates to the particular locality.

96 To 18th inty. he says: Madison merchants are unable to do any business with the country stores in this county, for the reason that Atlanta, Athens, and Milledgeville merchants, by reason of lower freight rates, can and do sell them goods at a profit at the same price that it cost the Madison merchants to deliver the goods at Madison, owing to high rate of freight to Madison. The difference is much greater on groceries and hardware, which are sold at close margin, than on dry goods. I know nothing further.

LEE TRAMMELL.

Answer of H. H. Fitzpatrick.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP CO., THE GEORGIA Railroad and Banking Co. et al. } In equity, No. 525.

The witness, H. H. Fitzpatrick, being duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

To inty. No. 1 he says: My name is Henry H. Fitzpatrick and my residence is Madison, Ga. I am a merchant, engaged in general farm-supply business.

To inty. 2nd he says: Madison has been my residence for nearly thirty-four years. I have been engaged in general farm-supply business at Madison for eleven years.

To inty. 3rd he says: They do.

To inty. 4th he says: Atlanta merchants sell goods at Buckhead, seven miles from Madison; at Greensboro, twenty miles; at Union Point, twenty-seven miles; at Washington, about seventy miles, and at other points on Georgia Railroad beyond Madison from Atlanta. These places are on the Georgia Railroad, and in order for goods from Atlanta to reach such points they have to be hauled through Madison over the Georgia Railroad.

To inty. 5th he says: They occasionally do, but owing to the high rate of freight they are unable to compete with Atlanta merchants.

97 To inty. 6th he says: They can not.

To inty. 7th he says: The disadvantage against Madison and in favor of Atlanta results from difference in freight rates.

To 8th inty. he says: The freight rate from western points to Atlanta on meat is forty-eight cents per hundred, while to Madison it is sixty-three cents per hundred. On flour the difference in favor of Atlanta is from 18 to 20 cents per barrel, and on corn the difference in favor of Atlanta is 9½ cents per hundred.

To inty. 9th he says: It has existed ever since I have been in business at Madison and it has materially retarded the growth of the city.

To inty. 10th he says: Madison merchants generally buy their goods

direct from New York and other Eastern points; in fact, they buy at least three-fourths of their goods there.

When goods are shipped from New York and other Eastern cities, they are shipped to Madison under a through bill of lading, with rate of freight named therein, and after being loaded from steamer at Charleston they are hauled through to Madison without transfer in the same cars in which they were originally loaded.

To inty. 11th he says: Population about 2,500 or 3,000, estimated. Madison has a guano factory making fertilizer, cotton-seed oil, and soap; canning factory, variety works, ice plant, cotton compress, and some other small enterprises.

To 12th inty. he says: They do.

To inty. 13th he says: A reduction in the rate as inquired about would materially lower prices. Madison merchants could then sell to their customers, and make the same profit they make now, meat at one-eight cent less; flour at 20c. per barrel less; corn at 5c. per bushel less, and oats 3c. per bushel less.

To int. 14th he says: Low prices increase the sale and consumption of goods. More goods are sold when they are cheap than when they are high. When they are high, consumers buy only what they are compelled to have, while when they are cheap the consumer buys liberally.

98

To inty. 15th he says: A reduction in the rates of freight as inquired about in 15th direct inty. will, in my opinion, increase the tonnage of traffic which will be hauled by the roads to the places name thirty-three and one-third per cent.

My reason for this opinion is that with low rate the merchants of Madison and the towns named could compete with Atlanta in their own territory. They would then sell many more goods, at least a third more, and if they sold more they would necessarily have more shipped.

To inty. 16th he says: Low rate to a locality have a marked effect in increasing the population of the locality and inducing the investment of capital. Capital, ordinarily, will not go to a place where freight rate are high. High rates drive away wholesale merchants from Madison, because they can not compete with Atlanta. All mercantile and manufacturing enterprises are, more or less, dependent for success on the rate of freight to the locality.

To the 17th inty. he says: Relatively high rates to a locality, or rates which discriminate against a locality, drive away business and materially retard the progress of the locality. The locality in favor of which the discrimination is made will build up and prosper at the expense of the other.

To 18th inty. he says: There are about twenty country stores in this county, outside of any town or village. By reason of the discrimination in the rate of freight in favor of Atlanta and against Madison these stores buy their goods as cheap, or cheaper, than the merchants of Madison. The Madison merchant can not sell them their goods because they cannot compete with Atlanta, and the country merchants draw from Madison a large part of the trade that legitimately belongs to Madison.

I know nothing further.

H. H. FITZPATRICK.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP CO., THE GEORGIA RAILROAD AND BANKING CO., et al. } In equity, No. 525.

The witness, S. A. Turnell, being duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

To inty. 1st he says: My name is S. A. Turnell and I reside in Madison, Ga. I am engaged in the dry goods business.

To inty. 2nd he says: I have resided at Madison, Ga., for nearly twenty-five years. Have been in the dry goods business here for about fifteen years.

To inty. 3rd he says: Yes. Atlanta merchants sell goods and do business at the places named, and in territory around said named places.

To 4th inty. he says: Atlanta merchants sell goods and do business at Buckhead, in this country, seven miles beyond Madison from Atlanta; at Greensboro, twenty miles beyond; at Union Point, twenty-seven miles beyond; and at other points on Georgia Railroad beyond Madison. All of these places are on the Georgia Railroad, and goods from Atlanta, in order to reach them, have to be hauled over the Georgia Railroad, through Madison.

To inty. 5th he says: They sometimes try, but owing to high rate of freight they are unable to compete with Atlanta.

To inty. 6th he says: They can not.

To inty. 7th he says: The disadvantage in favor of Atlanta and against Madison results from difference in rate of freight. Owing to this difference Madison merchants can not compete with merchants of
100 Atlanta. To inty. 8th he says: The freight rate on first-class freight from all eastern points to Atlanta is 114c. per hundred, while the rates to Madison is 143c. If the goods are left off at Madison, the freight is 143 cents per hundred, but if carried beyond Madison 68 miles, to Atlanta, the freight is only 114 cents per hundred.

To inty. 9th he says: This discrimination has existed ever since I began business at Madison, and has been the strongest factor in retarding the growth of the city.

To inty. 10th he says: The merchants of Madison buy the larger part of their goods direct from New York and other eastern points. When goods are bought in New York they are shipped through to Madison on through bill of lading naming a through rate to Madison. After reaching Charleston the goods are hauled through to Madison without transfer or breakage of bulk and in the same cars in which they were originally loaded.

To inty. 11th he says: The population of Madison is about 2,500. The principal enterprises are the Ga. Farmers' Oil & Fertilizer Co.; ice plant, cotton compress, variety works, and about forty (40) retail stores.

To inty. 12th he says: They enter into and affect the prices very materially.

To inty. 13th he says: A reduction in rates of freights as inquired about in this inty. would allow the merchants to sell goods cheaper to customers. Such reduction would lower the prices of goods.

To inty. 14th he says: When prices are low more goods are sold or consumed than when prices are high. This is my opinion and experience.

To inty. 15th he says: A reduction in the rates on all classes of goods from New York and other eastern cities to Madison and the towns named so that the rate would not be higher than the Atlanta rate would allow the Madison merchants and the merchants of the places
101 named to sell goods in their own territory. They would necessarily sell more goods and would have more shipped. As it is now Madison merchants are dependent on local retail trade. They can not do any wholesale business because they can not compete with Atlanta.

To inty. 16th he says: Relatively low or preferential rates to a locality promote the investment of capital there, and encourage business enterprises.

To inty. 17th he says: Relatively high rates to a locality drive away capital and business enterprises. No business enterprise can succeed unless it can compete in prices with other merchants who sell in the territory where the enterprise is located.

To inty. 18th he says: Madison merchants, being unable to compete in prices with Atlanta, can not sell goods to the many country stores in this county. These country stores can buy their goods as cheap as the Madison merchants, and as they have no city taxes to pay and their expenses are light, they draw much trade from Madison. If Madison had the same rate as Atlanta her merchants would sell goods to these country stores, and the trade that is now induced away from us would come back.

I know nothing further.

S. A. TURNELL.

I, William R. Mustin, of Madison, Georgia, the commissioner named in the stipulation attached to the interrogatories herein, do certify that I called before me said witnesses, to wit, Lee Trammell, H. H. Fitzpatrick, and S. A. Turnell, and after having duly sworn them to speak the truth, the whole truth, and nothing but the truth, took down their answers to said interrogatories, and that the foregoing pages contain a full, true, and correct report of the testimony given by each of the said witnesses.

This 22nd day of September, 1897.

W. R. MUSTIN,
Commissioner.

(Indorsed on envelope:) To O. C. Fuller, esq., clerk of the circuit court of the United States for the northern district of Georgia, Atlanta, Georgia. Registered No. 106, Madison, Ga. Received Sept. 22,
102 1897. Atlanta, Ga. Received from the hands of the postmaster at Atlanta, Ga., and filed this 23 day of Sept., 1897. O. C. Fuller, clerk.

Stipulation as to depositions of J. H. Aldman, D. M. Aldman, and A. D. Summer.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA RAILROAD & BANKING CO., et al. } In equity, No. 525.

In the above-entitled cause it is stipulated and agreed by counsel for the complainant and by counsel for the defendants that the depositions of the following named witnesses for the complainant, to wit: J. H. Aldman, D. M. Aldman, and A. D. Summers, of Conyers, Georgia, may be taken on the foregoing and annexed direct and cross interrogatories, and may be read in evidence on the hearing of said cause subject to all exceptions as to relevancy and competency. All formal objections are waived. It is further stipulated and agreed that G. W. Gleaton, of Conyers, Georgia, may act as commissioner in taking said depositions. The issuance of commission to him and formal caption and certificate by him are waived.

L. A. SHAVER,
Counsel for the Interstate Commerce Commission.
ED. BAXTER,
Counsel for the Defendants.

Interrogatories to J. H. Aldman, D. M. Aldman, and A. D. Summer.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA RAILROAD & BANKING COMPANY, et al. } In equity, No. 525.

103 Interrogatories in the above entitled cause on behalf of the complainant therein and to be exhibited to J. H. Aldman, D. M. Aldman, and A. D. Summer, of Conyers, Georgia.

Interrogatory No. 1. What is your name and residence, and in what occupation or business are you engaged?

Interrogatory No. 2. If you say you reside at Conyers, Georgia, state how long that place has been your residence, and how long you have been engaged in business there, and in what business.

Interrogatory No. 3. State whether merchants of Atlanta or Macon, Ga., sell goods and do business at Madison, Greensboro, Social Circle, Covington, Conyers and Stone Mountain, and also in territory around those points.

Interrogatory No. 4. Name points or localities around or beyond Conyers from Atlanta, or Macon, at which Atlanta or Macon merchants

sell goods or do business, and state how far such points are from or beyond Conyers and whether goods in order to reach such points from Atlanta or Macon have to be hauled through Conyers, and over what road.

Interrogatory No. 5. State whether merchants of Conyers attempt to sell goods and do business at such points in territory around and beyond Conyers, and whether in doing so they come in competition with merchants of Atlanta or Macon.

Interrogatory No. 6. State whether Conyers merchants can successfully compete with Atlanta or Macon merchants in selling goods and doing business at Conyers and in territory around and beyond Conyers.

Interrogatory No. 7. If, in answer to the preceding interrogatory, you state that Conyers merchants are placed at a disadvantage in this competition with Atlanta or Macon merchants, state what the disadvantage results from.

Interrogatory No. 8. If, in answer to the preceding interroga-
104 tory, you say this disadvantage results from a discrimination in rates in favor of Atlanta or Macon and against Conyers, give examples of this discrimination in rates in the sale of dry goods, groceries, etc.

Interrogatory No. 9. State how long this discrimination in favor of Atlanta or Macon has existed; and what effect, if any, it has had in retarding the growth of Conyers.

Interrogatory No. 10. State whether Conyers merchants buy their goods from Atlanta or Macon or direct from New York and other Eastern cities, or other sources of supply, and when goods are bought in New York or other Eastern cities whether they are shipped to Conyers under a through bill of lading, naming a through rate to Conyers, and whether goods are hauled through from New York and other Eastern cities after reaching Charleston to Conyers without transfer or breakage of bulk and in the same cars in which they were originally loaded.

Interrogatory No. 11. State the population and mercantile and manufacturing enterprises of Conyers.

Interrogatory No. 12. Do transportation rates or charges enter into and affect the prices at which yourself and other Conyers merchants sell goods to consumers in and around Conyers?

Interrogatory No. 13. How would a reduction in the rates on goods of all classes from New York and other Eastern cities to Madison, Greensboro, Social Circle, Covington, Conyers, and Stone Mountain, so as to make the rates to those points not higher than the rates to Atlanta or Macon, affect the prices at which merchants at Madison, Greensboro, Social Circle, Covington, Conyers, and Stone Mountain could sell goods to their customers? Would such reduction in rates lower or raise such prices?

Interrogatory No. 14. How do prices of goods affect their sale or consumption? Are more goods sold to consumers when goods are cheap, or when they are high? What is your opinion and experience in reference to this matter?

105 Interrogatory No. 15. Will a reduction in the rates on all classes of goods from New York and other Eastern cities to Madison, Greensboro, Social Circle, Covington, Conyers, and Stone Mountain,

so as to make the rates to those points not higher than the rates from New York and other Eastern cities to Atlanta or Macon, increase or diminish the tonnage of traffic which will be hauled by the roads to Madison, Greensboro, Social Circle, Covington, Conyers, and Stone Mountain? Give your reasons for whatever opinion you may express in answer to this interrogatory.

Interrogatory No. 16. What effect, if any, do relatively low or preferential rates to a locality have in increasing the population of such locality and inducing the investment of capital there, and in promoting the prosperity of such locality in other respects?

Interrogatory No. 17. What effect, if any, do relatively high rates to a locality, or rates which discriminate against a locality, have on its prosperity or progress in the respects named in the preceding interrogatory?

Interrogatory No. 18. Do you know or can you set forth any other matter or thing, which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

L. A. SHAVER,
For Complainant.

Cross-examination:

Cross-examination waived for the present.

ED BAXTER.

Answers of D. M. Almand.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad and Banking Company, et al.
} In Equity, No. 525.

106 By agreement of counsel for both parties in above-stated case, we have caused D. M. Almand, the witness named, to come before us.

The witness D. M. Almand, having been duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

To 1st intgy.: My name is D. M. Almand. I reside at Conyers, Georgia. I am engaged in mercantile business.

To 2d intgy.: I have resided in Conyers forty-five years. I have been engaged in the mercantile business in Conyers thirty-five years.

To 3d intgy.: Merchants in Macon and Atlanta sell goods and do business with merchants of Madison, Greensboro, Social Circle, Covington, Conyers, Stone Mountain, and all territory around these points.

To 4th intgy.: Covington is ten miles from Conyers, Social Circle is twenty miles, Madison is forty miles. Goods sold to these places by Atlanta or Macon merchants go through Conyers, over the Georgia Railroad, and the goods to country stores adjacent to Covington, Social Circle, and Madison go over the Georgia Railroad.

To 5th intgy.: Merchants of Conyers do a retail business. None do wholesale or jobbing business. They do not come in competition with Atlanta, Macon merchants, because they do no jobbing business.

To 6th inty.: Conyers merchants can not compete successfully with Atlanta and Macon merchants in selling goods to other points, because of difference in freight.

To 7th intgy.: The disadvantages result from the difference in freight rates.

To 8th intgy.: I know there is a difference in rates in favor of Atlanta and Macon as against Conyers and other points on Georgia Rail-
107 road, but I can not give the schedule of rates nor the difference between the through rates and local.

To 9th intgy. This discrimination has been going on ten or fifteen years. It has the effect of killing all manufacturing enterprises and jobbing houses.

To 10th intgy. Buy some in Atlanta and Macon and direct from New York and other Eastern cities. When goods are bought in New York and other Eastern cities, they are shipped to Conyers under through bill of lading, naming a through rate to Conyers. I do not know whether hauled through from Charleston to Conyers without transfer or not. I do not know whether the bulk is broken, or whether in the same cars in which it was originally loaded, or not.

To 11th intgy. The population of Conyers is about 1,600. The merchants are as follows: J. C. Stevenson, M. H. Plunket, Wood & Hollingsworth, A. D. Summers, W. L. Adair, C. B. Hudson, Gaily Drug Co., Thompson Stewart, J. W. Jones, W. H. Lee, D. M. Almand & Sons, Turner Bros., J. J. Langford, R. W. Tucker, J. H. Aldman & Co., G. A. Lucas, N. T. Street, Lackey, Tilley & Quigg, W. V. Almand & Son, J. A. Dukes, Rockdale Oil & Fertilizer Co., and Union Paper Mills Co.

To 12th intgy. Transportation rates enter into and affect the prices at which I and other merchants in Conyers sell goods to consumers.

To 13th intgy. If we could get the same rate as Atlanta and Macon, we would be able to sell goods to our customers cheaper.

To 14th intgy. Where goods are cheaper there are more of them consumed. My experience is that we sell more goods when they are cheap.

To 15th intgy. A reduction in rates of freight on all classes of goods from New York and Eastern cities to Madison, Greensboro, Social Circle, and other towns mentioned will increase the tonnage of
108 traffic which will be hauled, because more goods will be bought.

To 16th intgy. It would have a tendency to increase the population and induce the investment of capital there, and would probably make such a locality more prosperous.

To 17th intgy. Relatively high rates for freight for any locality would tend to decrease its population, drive away capital, and have a bad influence on the prosperity of that locality.

To 18th inty. Manufacturing enterprises have been started in Conyers which have moved away on account of the difference in freight rates against Conyers. H. D. Terrell, manufacturer of plows, moved to Macon on this account. The Atlanta Paper Bag Factory moved away from Conyers on account of high rates of freights. I am president of

the Union Paper Mills near Conyers, and unless we can get a better rate of freight we will be compelled to shut down our mills.

D. M. ALMAND.

Sworn to and subscribed before me Oct. 1st, 1897.

I, Geo. W. Gleaton, of Conyers, Ga., the commissioner named in the stipulation attached to the interrogatories herein, do certify that I called before me the witness named, to wit, D. M. Almand, and, after having duly sworn him to speak the truth, took down his answers to said interrogatories; and that the foregoing four pages contain a full, true, and correct report of the testimony given by D. M. Almand, the said witness.

This Oct. 1st, 1897, at Conyers, Ga.

GEO. W. GLEATON,
Commissioner.

Answers of L. J. Almand.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE Georgia Railroad and Banking Company, et al. } In equity, No. 525.

109 By agreement of counsel for both parties in above-stated case, we have caused L. J. Almand, the witness named, to come before us,

The witness L. J. Almand, having been duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

To 1st inty.: My name is L. J. Almand, of the firm of J. H. Almand & Co. I reside at Conyers, Georgia. I am engaged in mercantile business.

To 2d intgy.: I have resided at Conyers thirty-two years. I have been engaged in the mercantile business in Conyers about nine years.

To 3d intgy.: Merchants in Macon and Atlanta sell goods and do business with merchants of Madison, Greensboro, Social Circle, Covington, Conyers, Stone Mountain, and all territory around these points.

To 4th intgy.: Covington is ten miles from Conyers, Social Circle is twenty miles, Madison is forty miles. Goods sold to these places by Atlanta or Macon merchants go through Conyers over the Georgia Railroad. And the goods to country stores adjacent to Covington, Social Circle, and Madison go over the Georgia Railroad.

To 5th inty.: Merchants of Conyers do a retail business. None do wholesale or jobbing business. They do not come in competition with Atlanta, Macon merchants, because they do no jobbing business.

To 6th intgy.: Conyers merchants can not compete successfully with Atlanta and Macon merchants in selling goods to other points, because of difference in freight.

To 7th intgy.: The disadvantages result from the difference in freight rates.

To 8th intgy.: I know there is a difference in rates in favor of Atlanta

and Macon as against Conyers and other points on Georgia Rail-
110 road, but I can not give the schedule of rates, nor the difference between the through rates and local.

To 9th intgy.: This discrimination has been going on ten or fifteen years. It has the effect of killing all manufacturing enterprises and jobbing houses.

To 10th intgy.: Buy some in Atlanta and Macon, and direct from New York and other Eastern cities. When goods are bought in New York and other Eastern cities, they are shipped to Conyers under through bill of lading, naming a through rate to Conyers. I do not know whether hauled through from Charleston to Conyers without transfer or not. I do not know whether the bulk is broken, or whether in the same cars in which it was originally loaded or not.

To 11th intgy.: The population of Conyers is about 1,600. The merchants are as follows: J. C. Stevenson, M. H. Plunket, Wood & Hollingsworth, A. D. Summers, W. L. Adair, C. B. Hudson, Gaily Drug Co., Thompson Stewart, J. W. Jones, W. H. Lee, D. M. Almand & Sons, Turner Bros., J. J. Langford, R. W. Tucker, J. H. Aldman & Co., G. A. Lucas, N. T. Sweet, Lackey, Tilley & Quigg, W. V. Almand & Son, J. A. Dukes, Rockdale Oil & Fertilizer Co., and Union Paper Mills Co.

To 12th intgy.: Transportation rates enter into and affect the prices at which I and other merchants in Conyers sell goods to consumers.

To 13th intgy.: If we could get the same rate as Atlanta and Macon, we would be able to sell goods to our customers cheaper.

To 14th intgy.: Where goods are cheaper there are more of them consumed. My experience is that we sell more goods when they are cheap.

To 15th intgy.: A reduction in rates of freight on all classes of goods from New York and Eastern cities to Madison, Greensboro, Social Circle, and other towns mentioned will increase the tonnage of traffic which will be hauled, because more goods will be bought.

111 To 16th intgy.: It would have a tendency to increase the population and induce the investment of capital there, and would probably make such a locality more prosperous.

To 17th intgy.: Relatively, high rates of freight for any locality would tend to decrease its population, drive away capital, and have a bad influence on the prosperity of that locality.

To 18th inty.: Manufacturing enterprises have been started in Conyers which have moved away on account of the difference in freight rates against Conyers. H. D. Terrell, manufacturer of plows, moved to Macon on this account.

L. J. ALMAND,
Of the firm of J. H. Almand & Co.

Sworn to and subscribed before me Oct. 1st, 1897.

I, Geo. W. Gleaton, of Conyers, Ga., the commissioner named in the stipulation attached to the interrogatories herein, do certify that I called before me the witness named, to wit, L. J. Almand, and after having duly sworn him to speak the truth, the whole truth, and nothing but the truth, took down his answers to said interrogatories; and that the fore-

going pages contain a full, true, and correct report of the testimony given by L. J. Almand, the said witness.

This Oct. 1st, 1897, at Conyers, Ga.

GEO. W. GLEATON,
Commissioner.

Answers of A. D. Summers.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad and Banking Company, et al. } In equity, No. 525.

By agreement of counsel for both parties in above-stated case we have caused A. D. Summers, the witness named, to come before us.

112 The witness, A. D. Summers, having been duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

To 1st intgy.: My name is Allen D. Summers. I reside at Conyers, Georgia. I am engaged in mercantile business.

To 2nd intgy.: I have resided at Conyers twenty years. I have been engaged in the mercantile business in Conyers fifteen years.

To 3rd intgy.: Merchants in Macon and Atlanta sell goods and do business with merchants of Madison, Greensboro, Social Circle, Covington, Conyers, Stone Mountain, and all territory around these points.

To 4th intgy.: Covington is ten miles from Conyers, Social Circle is twenty miles, Madison is forty miles. Goods sold to these places by Atlanta or Macon merchants go through Conyers over the Georgia Railroad, and the goods to country stores adjacent to Covington, Social Circle, and Madison go over the Georgia Railroad.

To 5th intgy.: Merchants of Conyers do a retail business. None do wholesale or jobbing business. They do not come in competition with Atlanta, Macon merchants, because they do no jobbing business.

To 6th intgy.: Conyers merchants can not compete successfully with Atlanta and Macon merchants in selling goods to other points, because of difference in freight.

To 7th intgy.: The disadvantages result from the difference in freight rates.

To 8th intg.: I know there is a difference in rates in favor of Atlanta and Macon as against Conyers and other points on Georgia Railroad, but I can not give the schedule rates, nor the difference between the through rates and local.

113 To 9th intgy.: This discrimination has been going on ten or fifteen years. It has the effect of killing all manufacturing enterprises and jobbing houses.

To 10th intgy.: Buy some in Atlanta and Macon, and direct from New York and other Eastern cities. When goods are bought in New York and other Eastern cities they are shipped to Conyers under through bill of lading, naming a through rate to Conyers. I do not know whether hauled through from Charleston to Conyers without transfer or not. I

do not know whether the bulk is broken or whether in the same cars in which it was originally loaded or not.

To 11th intgy.: The population of Conyers is about 1,600. The merchants are as follows: J. C. Stevenson, M. H. Plunkett, Wood & Hollingsworth, A. D. Summers, W. L. Adair, C. B. Hudson, Gaily Drug Co., Thompson Stewart, J. W. Jones, W. H. Lee, D. M. Almand & Sons, Turner Bros., J. J. Langford, R. W. Tucker, J. H. Aldman & Co., G. A. Lucas, N. S. Street, Lackey, Tilley & Quigg, W. V. Almand & Son, J. A. Dukes, Rockdale Oil & Fertilizer Co., and Union Paper Mills Co.

To 12th intgy.: Transportation rates enter into and affect the prices at which I and other merchants at Conyers sell goods to consumers.

To 13th intgy.: If we could get the same rate as Atlanta and Macon we would be able to sell goods to our customers cheaper.

To 14th intg.: Where goods are cheaper there are more of them consumed. My experience is that we sell more goods when they are cheap.

To 15th intgy.: A reduction in rates of freight on all classes of goods from New York and Eastern cities to Madison, Greensboro, Social Circle, and other towns mentioned will increase the tonnage of traffic which will be hauled, because more goods will be bought.

To 16th intgy.: It would have a tendency to increase the popu-
114 lation and induce the investment of capital there, and would probably make such a locality more prosperous.

To 17th intgy.: Relatively high rates of freight for any locality would tend to decrease its population, drive away capital, and have a bad influence on the prosperity of that locality.

To 18th intg.: Manufacturing enterprises have been started in Conyers which have moved away on account of the difference in freight rates against Conyers. H. D. Terrell, manufacturer of plows, moved to Macon on this account.

ALLEN D. SUMMERS.

Sworn to and subscribed before me Oct. 1st, 1897.

I, Geo. W. Gleaton, of Conyers, Ga., the commissioner named in the stipulation attached to the interrogatories herein, do certify that I called before me the witness named, to wit, Allen D. Summers, and after having duly sworn him to speak the truth, the whole truth, and nothing but the truth, took down his answers to said interrogatories, and that the foregoing four pages contain a full, true, and correct report of the testimony given by Allen D. Summers, the said witness.

This Oct. 1st, 1897, at Conyers, Ga.

GEO. W. GLEATON,
Commissioner.

[Indorsed on envelope.]

To O. C. Fuller, esq., clerk of U. S. circuit court for the northern district of Georgia, Atlanta, Georgia.

I certify that I received this package of Geo. W. Gleaton, the commissioner, to be and have forwarded by due course of mail. October 2nd, 1897.

MARY M. MELTON, P. M.,
Conyers, Ga.

Received Oct. 2, 1897, Atlanta, Ga.

Received from the hands of the postmaster at Atlanta, Ga., and filed this 4 day of Oct., 1897.

O. C. FULLER, *Clerk.*

Interrogatories to Jesse M. Smith.

In the circuit court of the United States for the northern district of Georgia.

115 THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA RAILROAD & BANKING COMPANY, et al. } In equity, No. 525.

Interrogatories in the above-entitled cause on behalf of the complainant therein to be exhibited to Jesse M. Smith, Washington, D. C.

Interrogatory No. 1. What is your name, residence, and occupation?

Interrogatory No. 2. If you say you are auditor of the Interstate Commerce Commission, state how long you have occupied that position and what, if any, was your previous position with the Commission and how long you occupied that?

Interrogatory No. 3. In what business were you engaged before entering into the service of the Commission? How long were you so engaged and in what part of the country?

Interrogatory No. 4. Are schedules of rates, fares, and charges applying on interstate traffic required to be filed by carriers with the Interstate Commerce Commission? Are they not filed in the office of the auditor of the Commission, and is it not one of your duties as auditor to examine such tariffs?

Interrogatory No. 5. From your examination of such schedules of rates, fares, and charges, in what section of the United States does the practice of making the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, prevail to the greatest extent?

Interrogatory No. 6. If you say that this practice prevails to the greatest extent in the territory east of the Mississippi River and south of the Ohio and Potomac rivers, state whether or not it is the rule in that territory in cases of transportation from points outside that territory through shorter distance local points to longer distance competitive points in that territory.

116 Interrogatory No. 7. How long has this practice existed in that territory? Was it or not in existence in the year 1887, when the act to regulate commerce became a law, and prior thereto?

Interrogatory No. 8. Does this practice exist to any considerable extent in Eastern or trunk line territory?

Interrogatory No. 9. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in the territory east of the Mississippi River and south of the Ohio and Potomac rivers, except in cases of competition in transportation to the longer distant point? In other words, so far as your personal knowledge extends, has not competition in transportation been the sole ground or excuse for such greater charge?

Interrogatory No. 10. Under what classification are the rates from New York and other Eastern cities to Augusta, Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and Atlanta made? What is the minimum carload weight prescribed in that classification?

Interrogatory No. 11. Give a tabular statement showing the class rates that were in force in 1892 and that are now in force from New York and Boston to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, and to Atlanta and Augusta, showing the excess of the rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain on each class over the rates to Atlanta and to Augusta.

Interrogatory No. 12. Give a tabular statement showing the excess of the class rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain over the class rates to Atlanta and Augusta per minimum carload.

Interrogatory No. 13. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the par-
117 ties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

L. A. SHAVER,
Of Counsel for Complainant.

Cross-examination.

Cross-examination waived.

ED. BAXTER,
Counsel for Defendants.

Stipulation as to depositions of Jesse M. Smith.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad & Banking Company, et al.
In equity, No. 525.

In the above-entitled cause it is stipulated and agreed by counsel for the complainant and by counsel for the defendants that the deposition of the following-named witness for the complainant, to wit, Jesse M. Smith, of Washington, D. C., may be taken on the foregoing and annexed direct and cross interrogatories, and may be read in evidence on the hearing of said cause subject to all exceptions as to relevancy and competency. All formal objections are waived. It is further stipulated and agreed that Eugene L. Gaddess, of Washington, D. C., may act as commissioner in taking said deposition. The issuance of commission to him and formal caption and certificate by him are waived.

L. A. SHAVER,
Counsel for the Interstate Commerce Commission.

ED. BAXTER,
Counsel for the Defendants.

Filing: Filed in clerk's office 27 day of Aug., 1897. O. C. Fuller, clerk; by J. D. Steward, deputy.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad & Banking Company, et al.
In equity, No. 525.

Depositions of Jesse M. Smith, a witness for the complainant in the above-entitled cause.

The said witness, Jesse M. Smith, having been duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

Answer to interrogatory No. 1: My name is Jesse M. Smith, Washington, D. C., and I am auditor of the Interstate Commerce Commission.

Answer to interrogatory No. 2: I have occupied that position since July 1, 1895; from January 1, 1888, to July 1, 1895, I was assistant auditor of the Commission.

Answer to interrogatory No. 3: I was engaged in railroad work for about fourteen years prior to entering the service of the Commission, most of the time in the general freight department of the Louisville & Nashville Railroad, at Louisville, Ky., and Montgomery, Ala.

Answer to interrogatory No. 4: Common carriers are required to file with the Commission all schedules of rates, fares, and charges applying on interstate traffic. All of such schedules are placed on file in the office of the auditor of the Commission, and it is one of the duties of the auditor, with the assistance of the clerical force in his charge, to examine, as far as practicable, all schedules of rates, fares, and charges filed in compliance with section six of the act to regulate commerce, for the purpose of determining whether such schedules are in accordance with the requirements of the law and the orders of the Commission.

119 Answer to interrogatory No. 5: From the large number of tariffs examined since the beginning of my service with the Commission, applying in all sections of the country, I am of the opinion that the practice of making the greater charge for the shorter than for the longer haul, over the same line in the same direction, the shorter being included in the longer, prevails to the greatest extent in the territory east of the Mississippi River and south of the Ohio and Potomac rivers.

Answer to interrogatory No. 6: I am of the opinion that the practice referred to prevails, as a rule, in cases of transportation from points outside that territory through shorter distance local points to longer distance competitive points in that territory, though there are, no doubt, some exceptions.

Answer to interrogatory No. 7: To the best of my recollection this practice has existed in that territory to a greater or less extent since the beginning of my railroad service. It was in existence in the year 1887, and, as above indicated, prior thereto.

Answer to interrogatory No. 8: This practice does not prevail to any considerable extent in the territory east of the Mississippi River and north of the Ohio and Potomac rivers.

Answer to interrogatory No. 9: I have no personal knowledge of any case where the greater charge for the shorter than for the longer haul over the same line in the same direction, the shorter being included in the longer, has been made in the territory described, except in cases where competition in transportation existed at the longer distance point. I believe the lower charge to the longer distance point has, in practically all cases, been made on the ground of competition in transportation to such longer distance point, either direct competition in transportation from and to the same points or competition with carriers operating from other markets to same point of destination.

Answer to interrogatory No. 10: The rates from New York and other Eastern cities to Augusta, Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and Atlanta, Ga., are subject to the southern freight classification. This classification provides that unless otherwise specified in the classification the minimum carload weight of all articles loaded in cars 36 feet in length or less shall be 24,000 pounds, or twelve tons when the rate applies per ton, net or gross. For cars over 36 feet in length the minimum carload weights are provided in proportion to length of the car. Special minimum carload weights are provided in the classification for quite a large number of articles, the lowest being 10,000 pounds.

120

Answer to interrogatory No. 11: The class rates in force in 1892, also the present rates, from New York and Boston to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, Atlanta, and Augusta, Ga., are shown in the following table:

(Ans. to int. No. 11.)

Class rates from New York, N. Y., and Boston, Mass., to points named below.

[In cents per hundred pounds.]

	Classes.												
	1	2	3	4	5	6	A	B	C	D	E	Per bbl. H	Per bbl. F
Greensboro, Ga.:													
1892	137	118	102	87	69	54	45	59	42½	41	65	83	82½
1897	137	118	102	87	69	54	45	59	43	41	65	83	82½
Madison, Ga.:													
1892	143	123	107	89	71	56	47	61	43	42	67	85	84
1897	144	123	107	89	71	56	47	61	44	42	67	85	84
Social Circle, Ga.:													
1892	144	125	109	90	72	57	48	61	43½	42½	68	86	85
1897	144	125	109	90	72	57	48	61	45	43	68	86	85
Covington, Ga.:													
1892	141	122	108	93	76	61	48	60	48	46½	74	88	94
1897	141	122	108	91	73	58	48	60	45	43	69	87	86
Conyers, Ga.:													
1892	138	119	105	90	74	60	47	59	47½	46	72	85	93
1897	138	119	105	90	74	59	47	59	45	44	70	85	87
Stone Mountain, Ga.:													
1892	132	114	101	85	71	58	45	57	46	44½	69	80	90½
1897	132	114	101	85	71	58	45	57	46	44	69	80	90
Atlanta, Ga.:													
1892	114	98	86	73	60	49	36	48	40	39	58	68	78
1897	114	98	86	73	60	49	36	48	40	39	58	68	78
Augusta, Ga.:													
1892	96	81	70	58	47	37	28	42	31½	31	43	54	61
1897	96	81	70	58	47	37	28	42	32	31	43	54	61

Ans. to int. No. 11: The rates from New York and Boston to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are higher than the rates to Atlanta, as follows:

121

	Classes.											
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	23	20	16	14	9	5	9	11	3	2	7	15	4½
Madison	30	25	21	16	11	7	11	13	5	3	9	17	6
Social Circle	30	27	23	17	12	8	12	13	5	4	10	18	7
Covington	27	24	22	18	13	9	12	12	5	4	11	19	8
Conyers	24	21	19	17	14	10	11	11	6	5	12	17	9
Stone Mountain	18	16	15	12	11	9	9	9	6	5	11	12	12

The rates from New York and Boston to same points are higher than the rates to Augusta, as follows:

Greensboro	41	37	32	29	22	17	17	17	11	10	22	29	21½
Madison	48	42	37	31	24	19	19	19	11	11	24	31	23
Social Circle	48	44	39	32	25	20	20	19	13	12	25	32	24
Covington	45	41	38	33	26	21	20	18	13	12	26	33	25
Conyers	42	38	35	32	27	22	19	17	13	13	27	31	26
Stone Mountain	36	33	31	27	24	21	17	15	14	13	26	26	29

Answer to interrogatory No. 12: The excess of the rates in the first six classes to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain over the rates on same classes to Atlanta, in dollars, per carload of 24,000 pounds, is as follows:

	Classes.					
	1	2	3	4	5	6
Greensboro	$55.20	48.00	38.40	33.60	21.60	12.00
Madison	72.00	60.00	50.40	38.40	26.40	16.80
Social Circle	72.00	64.80	55.20	40.80	28.80	19.20
Covington	64.80	57.60	52.80	43.20	31.20	21.60
Conyers	57.60	50.40	45.60	40.80	33.60	24.00
Stone Mountain	43.20	38.40	36.00	28.80	26.40	21.60

122 The excess of the rates on the first six classes to above-named points, over the rates on same classes to Augusta, in dollars and cents, per carload, of 24,000 pounds, is as follows:

	Classes.					
	1	2	3	4	5	6
Greensboro	$98.40	88.80	76.80	69.60	52.80	40.80
Madison	115.20	100.80	88.80	74.40	57.60	45.60
Social Circle	115.20	105.60	93.60	76.80	60.00	48.00
Covington	108.00	98.40	91.20	72.20	62.40	50.40
Conyers	100.80	91.20	84.00	76.80	64.80	52.80
Stone Mountain	86.40	79.20	74.40	64.80	57.60	50.40

Answer to interrogatory No. 13: I know of nothing further that may be of benefit or advantage to the parties at issue in this cause, or either of them, or that is material to the subject of this examination.

JESSE M. SMITH.

I, Eugene L. Gaddess, of Washington, D. C., the commissioner named in the stipulation attached to the interrogatories herein, do certify that I called before me the witness Jesse M. Smith, and, after having duly sworn him to speak the truth, the whole truth, and nothing but the truth, took down his answers to said interrogatories, and that the foregoing pages contain a full, true, and correct report of the testimony given by said witness. This the 26th day of August, 1897.

EUGENE L. GADDESS,
Commissioner.

[Endorsed on envelope.]

To O. C. Fuller, esq., clerk of U. S. circuit court for the northern district of Georgia, Atlanta, Ga.

Registered August 26, 1897, Washington, D. C., Station C, No. 2093. Atlanta, Ga., received by due course of mails this 28 day of Aug., 1897. Amos Fox, P. M.

Received this package from the hands of Amos Fox, P. M., at Atlanta, Ga., and filed Aug. 28, 1897.

O. C. FULLER, *Clerk.*
By GEO. S. BARNARD, *Deputy Clerk.*

123 *Interrogatories to Allen Fort.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad and Banking Company, et al. } In equity, No. 525.

Interrogatories in the above-entitled cause on behalf of the complainant therein to be exhibited to Allen Fort.

Interrogatory No. 1. What is your name and residence, and what position, if any, do you hold under the State of Georgia?

Interrogatory No. 2. How long have you held such position? Have your duties as a member of the railroad commission of Georgia required you to study and made you familiar with the railroad situation in that State? Had your attention been called to the transportation question prior to your becoming a member of the Georgia railroad commission; and if so, how and for how long a time?

Interrogatory No. 3. Were the rates in force in 1892, and now in force, from Atlanta, Georgia, to the following stations on the Georgia Railroad between Augusta and Atlanta, to wit, Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, established by the railroad commission of Georgia? Were the rates from Augusta in force in 1892, and now in force, to those stations established by the railroad commission of Georgia?

Interrogatory No. 4. Name the rates in force in 1892, and now in force, from Atlanta to those stations. Name the rates in force in 1892, and now in force, from Augusta to those stations.

Interrogatory No. 5. In establishing the rates named in the preceding interrogatory, did the railroad commission of Georgia take into consideration the fact that the expense to the carrier of the service of carriage on local hauls in less than carload lots is greater per ton per mile than on long through hauls?

124

Interrogatory No. 6. Has the railroad commission of Georgia any authority, or does it attempt to exercise any authority, in establishing the through rates on interstate commerce or any proportions of such rates?

Interrogatory No. 7. Is it your opinion that the prosperity of a road is promoted more by a system of rates which builds up business at local stations along its entire line, or by a system which discriminates against such local stations and tends to build up business at widely separated trade centers alone?

Interrogatory No. 8. Have the effects of the former or latter system of rate making referred to in the preceding interrogatory come under your observation on any roads in the State of Georgia or elsewhere? And if so, state fully what those effects were.

Interrogatory No. 9. Are the geographical positions of Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, and the character of the territory by which they are surrounded, such that they are capable of no further growth? What effect, if any, would the reduction of the rates from New York and other Eastern cities to those points so as to make their rates not higher than the rates to Atlanta have on the prosperity and growth of those points?

Interrogatory No. 10. Will a reduction in the rates on all classes of goods from New York and other Eastern cities to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, so as to make their rates not higher that the rates for the haul through those points to Atlanta, , in your opinion increase or diminish the tonnage of traffic which will be hauled by the roads to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain?

Interrogatory No. 11. What effect, if any, do relatively low or preferential rates to a locality have in increasing the population of such locality and in inducing the investment of capital there, and in promoting the prosperity of such locality in other respects?

125

Interrogatory No. 12. What effect, if any, do relatively high rates to a locality, or rates which discriminate against a locality, have on its prosperity or progress in the respects named in the preceding interrogatory?

Interrogatory No. 13. State whether or not Atlanta or Augusta ..... merchants compete for business or sell goods in the territory adjacent to and surrounding Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain?

Interrogatory No. 14. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

L. A. SHAVER,
Of Counsel for the Complainant.

Cross-examination:

Cross-examination waived.

ED. BAXTER,
Counsel for Defendants.

Stipulation as to deposition of Allen Fort.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad & Banking Company, et al. } In equity, No. 525.

In the above-entitled cause it is stipulated and agreed, by counsel for the complainant and by counsel for the defendants, that the deposition of the following-named witness for the complainant, to wit, Allen Fort, of Atlanta, Ga., may be taken on the foregoing and annexed direct and cross-interrogatories and may be read in evidence on the hearing of said cause, subject to all exceptions as to relevancy and competency.

126 All formal objections are waived. It is further stipulated and agreed that J. D. Massey, of Atlanta, Ga., may act as a commissioner in taking said deposition. The issuance of commission to him and formal caption and certificate by him are waived.

ED. BAXTER,
Counsel for the Defendants.

L. A. SHAVER,
Counsel for the Interstate Commerce Commission.

Filing: Filed in clerk's office 27 day of Aug., 1897. O. C. Fuller, clerk, by J. D. Steward, deputy.

Answers of Allen Fort.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad & Banking Company, et al. } In equity, No. 525.

The witness, Allen Fort, having been first by me duly sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

To interrogatory No. 1, witness answering says: That his name is Allen Fort; his residence at Americus, Ga.; that he is one of the railroad commissioners of Georgia; that he has held said position for about six years.

To interrogatory No. 2, witness answering says: That he has been railroad commissioner of Georgia since October 15th, 1891; that his duties as such railroad commissioner require him to study and become familiar with the railroad situation in Georgia; that prior to his accession to the commission he had given considerable thought to the transportation question; that as a member of the Georgia legislature during the years 1877, 1878, 1879, and 1880, it became his duty to investigate the

subject in order that he might intelligently vote on pending legislation organizing the railroad commission of Georgia and otherwise affecting railroad transportation in Georgia.

To interrogatory No. 3, witness answering says: The authorized rates in force in 1892, and rates now in force, from Atlanta, Georgia, to
127 Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, and rates in force in 1892, and now in force, from Augusta to those stations were established by the railroad commission of Georgia.

To interrogatory No. 4, witness answering says: That the authorized rates in force from Atlanta and from Augusta to those stations in 1892 may be found on pages 114 and 115, in connection with pages 137 and 138 of the Twentieth Report of the Railroad Commission of Georgia, copy of which is made a part of this answer. The authorized rates now in force from Augusta and from Atlanta to the stations named will be found also in said report by reference to the pages named, said Georgia Railroad taking standard tariff rates, which remain unchanged.

To interrogatory No. 5, witness answering says: They did.

To interrogatory No. 6, witnesss answering says: They have not and do not.

To interrogatory No. 7, witness answering says: In my opinion the prosperity of the roads is greatly promoted by a system of rates which build up business at local stations along their entire lines, and that their prosperity is greatly injured by a system which discriminates against local stations and tends to build up business at widely separated "trade centers" alone. At the local stations, where the roads get the entire business by granting just rates, they would increase their tonnage from these stations, thereby securing an improved permanent business, not competitive. Such a course would foster friendly relations between the people and the roads and in a number of ways benefit the roads and promote their prosperity.

To interrogatory No. 8, witness answering says: I have observed the effects of rate-making systems which build up business at local stations, and have found that the roads so doing were uniformly more prosperous and their business more reliable, while, on the other hand, roads pursuing the opposite policy of discriminating against their noncompetitive stations have not been prosperous. This kind of oppression has promoted the construction of competing lines, often where the legitimate trade did not warrant it.

To interrogatory No. 9, witness answering says: The geograph-
128 ical positions of Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, and the territory by which they are surrounded, are such that they are capable of further growth; and if rates from New York and other Eastern cities were not higher to those points than rates from New York and other Eastern cities to Atlanta, in my opinion their prosperity and growth would be promoted.

To interrogatory No. 10, witness answering says: In my opinion a reduction in rates from New York and other Eastern cities to those stations, so as to make said rates not higher than rates charged for the haul through those points to Atlanta, would increase the tonnage of traffic hauled by the roads to said points.

To interrogatory No. 11, witness answering says: Relatively low and preferential rates to a particular locality, if such rates are stable, would tend to increase the population of such locality and induce the investment of capital there, and would promote the prosperity of such locality. It would promote manufacturing, cause jobbing houses to be established, and increase the trade of such locality by extending its territory.

To interrogatory No. 12, witness answering says: Relatively high rates to a locality which discriminates against it would have the opposite effect from that stated in the foregoing answer. The margin of profit is so small now in commercial transactions that a discriminating rate against a locality makes manufacturing and jobbing unprofitable; and a locality so discriminated against can not hold the trade in its own legitimate territory, but more favored localities secure the trade and are built up at the expense of the less favored.

To interrogatory No. 13, witness answering says: I presume that Atlanta and Augusta merchants do compete for business and sell goods in the territory adjacent to and surrounding said stations; to what extent I am unable to say.

To interrogatory No. 14, witness answering says: Nothing else of benefit to the parties at issue in this case, or either of them, material to the subject-matter of this examination, occurs to me at this time.

ALLEN FORT, *Deponent.*

I, J. D. Massey, of Atlanta, Georgia, the commissioner named in the stipulation attached to the interrogatories herein, do certify that I
129 called before me the witness, to wit, Allen Fort, and after having first sworn him to speak the truth, the whole truth, and nothing but the truth, took down his answers to said interrogatories, and that the foregoing pages contain a full, true, and correct report of the testimony given by said witness. I do certify further that the Twentieth Report of the Railroad Commission of Georgia, herein inclosed, is the same referred to by witness aforesaid, and by him made a part of his answer, as therein set out.

This 29th day of September, 1897.

J. D. MASSEY, *Commissioner.*

[Endorsed on envelope.]

To O. C. Fuller, esq., clerk of the U. S. circuit court for the northern district of Georgia, Atlanta, Ga.

Received of J. D. Massey, com'r, this package, this 30 day of September, 1897.

O. C. FULLER, *Clerk.*

130 [Extracts from 20th report railroad commission of Georgia.]

Standard freight tariff—Classes.

[Per 100 pounds.]

Distance.	1	2	3	4	5	6	A	B	C	D	E	Per bbl. F	Per 100 lbs. G	Per 100 lbs. H
Miles.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
5	12	11	10	8	7	6	6	6	4½	5	7	9	2½	8
10	16	14	13	10	9	8	8	8	5½	5½	9	11½	3½	10
15	18	16	15	12	11	9	9	9	6	6	11	12½	3½	12
20	20	18	16	14	12	10	10	10	7	6½	12	14	5	14
25	22	20	18	16	13	11	11	11	7½	6½	13	15	5½	16
30	24	21	19	17	14	11	11	11	7½	6½	14	15	6	17
35	26	23	21	19	15	12	12	12	8	7½	15	16½	6½	19
40	27	24	22	20	16	12	12	12	8	7½	16	16½	6½	20
45	29	26	24	21	17	13	13	13	8½	8	17	17½	6½	21
50	30	27	25	22	18	13	13	13	8½	8	18	17½	7	22
55	32	29	26	23	19	14	14	14	9	8½	19	18	7	23
60	33	30	27	24	19	14	14	14	9	8½	19	18	7½	24
65	35	32	28	25	20	15	15	15	9½	9	20	19	7½	25
70	36	33	29	26	20	15	15	15	9½	9	20	19	7½	26
75	38	35	30	27	21	16	16	16	10	9½	21	20	7½	27
80	39	36	31	28	21	16	16	16	10	9½	21	20	7½	28
85	41	37	32	29	22	17	17	17	11	10	22	21½	7½	29
90	42	38	33	29	22	17	17	17	11	10	22	21½	8	29
95	44	39	34	30	23	18	18	18	11½	11	23	23	8	30
100	45	40	35	30	23	18	18	18	11½	11	23	23	8½	30
110	48	42	37	31	24	19	19	19	12	11	24	23	8½	31
120	51	44	39	32	25	20	20	20	13	12	25	24	8½	32
130	54	46	41	33	26	21	21	21	13	12	26	25	8½	33
140	57	48	43	34	27	22	22	22	13	13	27	26	9	34
150	60	50	45	35	28	23	23	23	14	13	28	28	9	35
160	62	52	46	36	29	24	24	24	14	13	29	29	9½	36
170	64	54	47	37	30	25	25	25	15	14	30	30	9½	37
180	66	56	48	38	31	26	26	26	15	14	31	31	9½	38
190	68	58	49	39	32	27	27	27	16	15	32	33	9½	39

131 [Extracts from 20th Report Railroad Commission of Georgia—Continued.]

Standard freight tariff—Classes—Continued.

[Per 100 pounds.]

Distance.	1	2	3	4	5	6	A	B	C	D	E	Per bbl. F	Per 100 lbs. G	Per 100 lbs. H
Miles.	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*	*Cts.*
200	70	60	50	40	32	27	27	27	16	15½	32	33	9½	40
210	71	62	51	41	33	28	28	28	17	16	33	34	9½	41
220	72	64	52	42	33	28	28	28	17	16	33	34	10	42
230	73	66	53	43	34	29	29	29	18	17	34	36	10½	43
240	74	68	54	44	34	29	29	29	18	17	34	36	10½	44
250	75	70	55	45	35	30	30	30	19	18	35	38	10½	45
260	76	71	56	46	35	30	30	30	19	18	35	38	10½	46
270	77	71	56	46	36	31	31	31	20	19	36	40	10½	46
280	78	72	57	47	36	32	32	32	20	19	36	40	10½	47
290	79	72	57	47	37	32	32	32	21	19	37	42	10½	47
300	80	73	58	48	38	33	33	33	21	19	38	42	11	48
310	81	73	58	48	38	33	33	33	21	19	38	42	11	48
320	82	74	59	49	39	34	34	34	21	20	39	42	11	49
330	83	74	59	49	39	34	34	34	22	20	39	44	11	49
340	84	74	59	49	39	34	34	34	22	20	39	44	11	49
350	85	75	60	50	40	35	35	35	23	21	40	46	11	50
360	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
370	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
380	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
390	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
400	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
410	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
420	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
430	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
440	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
450	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
460	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
470	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
480	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
490	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
500	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
510	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
520	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
530	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
540	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
550	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
560	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
570	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
580	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
590	85	75	60	50	40	35	35	35	23	21	40	46	11½	50
600	85	75	60	50	40	35	35	35	23	21	40	46	11½	50

132 [Extracts from 20th Report Railroad Commission of Georgia—Continued.]

Standard freight tariff—Classes.

Distance.	Per 100 lbs.		Per ton.		Per carload.			Per 100 lbs.
	J	K	L	M	N	O	P	R
Miles.	*Cts.*	*Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*Cts.*
5	8	4	.35	.55	5.00	5.50	4.00	4
10	10	5	.50	.80	6.50	8.00	5.00	5
15	12	5½	.55	.85	7.50	9.00	6.00	5½
20	13	6	.60	.90	8.00	10.00	7.00	6
25	14	6½	.65	.95	9.00	11.00	8.00	6½
30	15	7	.70	1.00	10.00	11.00	8.00	7
35	16	7½	.75	1.05	12.00	12.00	9.00	7½
40	17	8	.80	1.10	13.00	12.00	9.00	8
45	18	8	.85	1.15	14.00	13.00	10.00	8½
50	**19**	**8**	**.90**	**1.20**	**14.00**	**13.00**	**10.00**	**9**
55	20	8	.95	1.25	14.00	14.00	10.00	9
60	21	9	.95	1.30	14.50	14.00	11.00	10
65	22	9	1.00	1.35	15.50	15.00	11.00	10
70	22	9	1.00	1.40	16.00	15.00	11.00	11
75	23	9½	1.05	1.45	16.50	16.00	12.00	11
80	23	9½	1.10	1.50	17.00	16.00	12.00	12
85	24	9½	1.15	1.55	17.50	17.00	13.00	12
90	24	9½	1.15	1.60	18.00	17.00	13.00	13
95	25	10	1.20	1.65	19.00	17.00	14.00	14
100	**25**	**10**	**1.20**	**1.70**	**20.00**	**17.00**	**14.00**	**14**
110	26	10	1.25	1.80	21.00	18.00	14.00	15
120	27	10½	1.30	1.90	23.00	18.00	15.00	16
130	28	10½	1.35	2.00	24.00	19.00	16.00	17
140	29	11	1.40	2.10	25.00	19.00	16.00	18
150	**30**	**11**	**1.50**	**2.20**	**26.00**	**20.00**	**17.00**	**18**
160	31	12	1.60	2.25	27.00	20.00	17.00	19
170	32	12	1.70	2.30	28.00	21.00	18.00	19
180	33	12	1.80	2.35	29.00	21.00	19.00	20
190	34	13	1.90	2.40	29.50	22.00	19.00	20
200	**35**	**13**	**2.00**	**2.45**	**30.00**	**22.00**	**20.00**	**20**
210	36	13	2.10	2.50	31.00	23.00	20.00	21
220	37	14	2.20	2.55	31.50	23.00	21.00	21
230	38	14	2.30	2.65	32.00	23.00	21.00	21
240	39	14	2.40	2.65	33.00	24.00	22.00	22
250	**40**	**15**	**2.50**	**2.75**	**33.50**	**24.00**	**22.00**	**22**
260	41	15	2.60	2.75	34.00	24.00	22.00	22
270	42	15	2.70	2.85	34.50	25.00	23.00	22
280	43	16	2.80	2.85	35.00	25.00	23.00	23
290	44	16	2.90	2.95	36.00	25.00	24.00	23
300	**45**	**16**	**2.95**	**3.00**	**36.50**	**26.00**	**24.00**	**24**
310	46	17	3.05	3.10	37.00	26.00	24.00	23
320	47	17	3.05	3.20	38.00	26.00	24.00	24
330	48	17	3.15	3.30	38.50	27.00	25.00	24
340	49	17	3.15	3.40	39.00	27.00	25.00	24
350	**50**	**17**	**3.28**	**3.50**	**40.00**	**27.00**	**25.00**	**24**
360	51	17	3.28	3.50	40.00	27.00	25.00	24
370	52	17	3.28	3.50	40.00	27.00	25.00	24
380	53	18	3.41	3.60	41.00	29.00	27.00	26
390	54	18	3.41	3.60	42.00	29.00	27.00	26
400	**55**	**18**	**3.41**	**3.60**	**42.00**	**29.00**	**27.00**	**26**

133 [Extracts from 20th Report Railroad Commission of Georgia—Continued.]

Standard freight tariff—classes—Continued.

Distance.	Per 100 pounds.		Per ton.		Per car load.			Per 100 lbs.
	J	K	L	M	N	O	P	R
Miles.	*Cts.*	*Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*$ Cts.*	*Cts.*
410	56	19	3.54	3.70	44.00	31.00	29.00	28
420	57	19	3.54	3.70	44.00	31.00	29.00	28
430	58	19	3.54	3.70	44.00	31.00	29.00	28
440	59	20	3.67	3.80	46.00	33.00	31.00	30
450	**59**	**20**	**3.67**	**3.80**	**46.00**	**33.00**	**31.00**	**30**
460	60	20	3.67	3.80	46.00	33.00	31.00	30

[Extracts from 20th Report Railroad Commission of Georgia—Continued.]

GEORGIA R. R.

Passenger—Class A—(Three cents per mile).
Freight—To all classes apply standard tariff.

Distance table.

	0
Augusta	5
Wheless	10
Belair	15
Grovetown	16
Forest	21
Berzelia	25
Harlem	26
Saw Dust	29
Dearing	33
Bonesville	37
Thomson	43
Mesena	47
Camak	51
Warrenton	60
Mayfield	67
Culverton	71
Sparta	79
Devereaux	83
Carrs	93
Milledgeville	101
Browns	106
Haddocks	111
James	116
134 Roberts	125
Macon	50
Norwood	58
Barnett	62
Raytown	68
Ficklin	76
Washington	64
Crawfordsville	70
Robinsons	76
Union Point	81
Woodville	83
Bairdstown	89
Maxeys	92
Antioch	98
Lexington	108
Winterville	116
Athens	83
Greensboro	90
Oconee	96
Buckhead	103
Madison	

Dorsey 107
Rutledge 111
Social Circle 119
Alcovy 123
Covington 130
Conyers 140
Lithonia 146
Redan 150
Stone Mountain 153
Clarkson 160
Decatur 165
Atlanta 171

GAINESVILLE, JEFFERSON & SOUTHERN R. R.

Passenger—Class A—(Three cents per mile).
Freight—
Cotton—Class J.
Lumber—Class P.
Add twenty-five (25) per cent to all other classes except C, D and F.

Distance table.

Gainesville .....
Candler .....
135 Florence 1
Pendergrass 1
Jefferson 2
Hoschton 1
Mulberry 2
Jug Tavern 2
Bethlehem 3
Camps 3
Monroe 4
Gresham 4
Social Circle 5

GEORGIA MIDLAND & GULF R. R.

Passenger—Class A—(Three cents per mile).
Freight—
To Classes 1, 2, 3, 4, 5, 6, A, E, H, and R add twenty-five (25) per cent.
To all other classes apply standard tariff.

Distance table.

Columbus, Ga .....
Flat Rock 1
Ellersville 1
Waverly Hall 2
Mulberry 2
Shiloh 3

Nebula 38
Warm Springs 42
Woodbury 52
Jenkinsville 57
Williamsville 60
Concord 64
Stearnsville 72
Griffin 80
Pomona 89
McDonough 97

136 In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
versus
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad & Banking Company, et al.
} In equity, at Atlanta. No. 525.

Frank Lyon, stenographer, 1317 F st. NW., Washington, D. C.

Received by express; filed Aug. 27, 1897. O. C. Fuller, clerk.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad & Banking Company, et al.
} In equity, at Atlanta, Ga. No. 525.

In this case it is stipulated and agreed by counsel for complainant and counsel for defendants that Frank Lyon, stenographer, shall act as special examiner, with all the powers of such, to take the depositions of such witnesses in this case as may be produced before him by defendants.

It is further stipulated and agreed that he shall take the testimony of such witnesses in shorthand and afterwards reduce the same to typewriting, and certify that his report of the testimony is full, true, and correct. The signatures of the witnesses to their testimony, and all formal caption and certificate are expressly waived.

June 22nd, 1897.

(Signed)

L. A. SHAVER,
Counsel for Complainant.
ED. BAXTER,
Counsel for Defendants.

137 INDEX.

Name.	Direct.	Cross.	Re-d.	Re-c.	Re-re-d.
Biles, G. P.	233	241	254	255	256
Brown, J. M.	149	159			
Compton, C. B.	79	96			
Culp, J. M.	51	61	77		
Davant, T. S.	32	39	50		
Hillyer, Carlton	107	124	137		
Knok, G. R.	206	221	236		
Lutz, R. E.	166	177	186		
Thompson, J. R.	141	143	146	147	147
Van den Burg, Y.	1	13	28	30	
Winburn, W. A.	187	193	203	204	204

Exhibits.

Exhibit No. ½. Offered by J. M. Culp, p. 78.

Articles of agreement of the Southeastern Freight Association.

Exhibit No. 1. Offered by Carlton Hillyer, p. 108.

Statement showing the relationship between the through and local freight business of the Georgia Railroad Company for the fiscal year ending June 30th, 1891.

Exhibit No. 2. Offered by Carlton Hillyer, p. 109.

Statement showing income and expenses of the Georgia Railroad from the beginning of the lease of said road April 1st, 1881, to the close of the fiscal year ended June 30th, 1896.

Exhibit No. 3. Offered by Carlton Hillyer, p. 110.

Statement showing the loss sustained by the lessees of the Georgia Railroad from the operations of said railroad from the beginning of the lease April 1st, 1881, to the close of the fiscal year ended June 30th, 1896.

Exhibit No. 4. Offered by Carlton Hillyer, p. 111.

Statement showing the relationship between certain movements of through and local freights to, from, or passing through Augusta and Atlanta, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1894.

138 Exhib't No. 5. Offered by Carlton Hillyer, p. 115.

Statement showing the relationship between through and local freights of the Georgia Railroad Company, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1894.

Exhibit No. 6. Offered by Carlton Hillyer, p. 117.

Statement showing the percentage of first-class freights as compared with total freights in certain movements of freights to, from, or passing through Augusta and Atlanta, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1894.

Exhibit No. 7. Offered by Carlton Hillyer, p. 120.

Fixed and obligatory charges. Statement showing the amount of taxes paid by the Georgia Railroad from the beginning of the lease April 1st, 1881, to the close of the fiscal year ended June 30th, 1896.

Exhibit No. 8. Offered by Carlton Hillyer, p. 120.

Fixed and obligatory charges. Statement showing the interest on bonds and other charges paid by the Ga. R. R. on account of the G. J. & S. R. R. and the U. P. and W. P. R. R. from the beginning of the

lease April 1st, 1881, to the close of the fiscal year ended June 30th, 1896.

Exhibit No. 9. Offered by Carlton Hillyer, p. 121.

Statement showing amounts expended by Ga. R. R. on improvements in road and equipment from beginning of lease April 1st, 1881, to the close of the fiscal year ended June 30th, 1896.

Exhibit No. 10. Offered by Carlton Hillyer, p. 122.

Statement showing total Ga. R. R. freight revenue and mile tonnage of freight earning revenue carried by the Ga. R. R. from the beginning of the lease April 1st, 1881, to the close of the fiscal year ended June 30th, 1896.

Exhibit No. 11. Filed by Carlton Hillyer, p. 122.

139 Statement showing yearly averages of revenue, expenses, tons, trains, and miles for Georgia R. R. freight business, as per reports to the Int. Com. Com., from the beginning of said reports in 1888 to the close of the fiscal year ended June 30th, 1896.

Exhibit No. 12. Filed by J. R. Thompson, p. 142.

Statement of tonnage from the Eastern seaboard and interior points in New England, N. Y., Penn., Md., Del., and W. Va. to Atlanta, Ga., during the year ended March 31st, 1893.

Exhibit No. 13. Filed by J. R. Thompson, p. 142.

Classified statement of tonnage from points on and beyond the Ohio and Miss. rivers, and from and via Lexington, Ky., and from Nashville, Tenn., etc., etc., to Atlanta, Ga., during the year ended March 31, 1893.

Exhibit No. 14. Offered by R. E. Lutz, p. 169.

Memorandum of rates and distances from New York to stations on the A. S. R. R., the W. & T., and the B. & W. R. R.

Case No. 41.

FORT MONROE, VA., *June 22nd, 1897.*

Y. VAN DEN BURG, a witness called by and on behalf of the defendant, having been duly sworn, testified as follows:

By Mr. BAXTER:

1. State your name, age, residence, and occupation.

A. Y. van den Burg; 41 years; reside in Louisville, Ky.; traffic manager of the Louisville & Nashville Railroad.

2. Q. How long have you been connected with the traffic departments of railroads in the United States?

A. Since 1880.

3. Q. In this case the Interstate Commerce Commission ordered the defendant to desist from charging for the transportation of like kind of property from New York, Philadelphia, &c., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain more than to Atlanta. The rates from New York,

140 Philadelphia, &c., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and

Atlanta were, as shown by the report and opinion of the Commission in 1892, as follows:

	Classes.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	54	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	44	43	69	87	86
Conyers	138	119	105	90	74	59	47	59	44½	43	70	85	87½
Stone Mountain	132	114	101	85	71	58	45	57	47	44	69	80	89½
Atlanta	114	98	86	78	60	49	36	48	40	39	58	68	78

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, so as to make up for any loss of revenue that would otherwise result. Give your reasons for any opinion you may express.

A. Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain simply supply local consumption or demand at the points proper and within a limited territory adjacent. The reductions in the rates would not increase the consumption. There would be no increase of the traffic to compensate the carriers for the reduction in the revenue to any extent. In saying this I have in mind competing lines to points on other lines opposite the Georgia Railroad points mentioned, and which points compete with these Georgia Railroad points in supplying local consumption in the territory situated between their line and the Georgia road would of necessity revise their rates in line with those that may be made to the Georgia Railroad points.

4. Q. State whether said rates from New York, Philadelphia, &c., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are just and reasonable or unjust and unreasonable, and give your reasons for any opinion you may express.

A. I regard the rates from New York and other Eastern cities
141 to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain just and reasonable. The rates are made upon the lowest obtainable combination, Atlanta or Augusta governing, as the case may be, as the base point. In other words, in the adjustment of totals the local points are given the benefit of whatever competition may compel the existing rates to Augusta and Atlanta with the rates fixed by the Georgia railroad commission as the maximum out, and which latter are lower than are made in other sections of country for the same service and lower than can be obtained by any other means of transportation.

5. Q. State what lines actually and actively competed in 1892 and now compete from New York, Philadelphia, &c., in the transportation to Atlanta, Ga., for freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F classes:

A. The following lines actually competed in 1892 and do now compete to Atlanta on all classes of freight:

Direct steamers of the Ocean Steamship Co. to Savannah. The Merchants and Miners' Transportation Company's direct steamers to Norfolk; the various lines of steamers and rail lines from Boston to New York connecting with the direct steamer lines from that port to

Norfolk, Portsmouth, Charleston, Savannah, and Brunswick, in connection with the rail lines from Norfolk, Portsmouth, Charleston, Savannah, and Brunswick. The rail lines and the various steamship lines from Boston to New York in connection with the Pennsylvania Railroad and Jersey Central Railroad from New York via Alexandria, Norfolk, Harrisburg, Hagerstown, Shenandoah Junction, and rail lines thence.

From New York: The Ocean Steamship Co. to Savannah; Clyde line to Charleston; Mallory line to Brunswick; Old Dominion Steamship Co. to Norfolk and Portsmouth in connection with the rail lines from Norfolk, Portsmouth, Charleston, Savannah, and Brunswick; and the following all-rail routes: The Pennsylvania Railroad via Alexandria, Harrisburg, and Hagerstown, the various rail lines thence; the Jersey Central in connection with the Reading road via Harrisburg; the Jersey Central in connection with the Baltimore & Ohio via Shenandoah Junction, in connection with the rail routes from Harrisburg and Shenandoah Junction.

From Philadelphia: The Ocean Steamship Co. to Savannah; the Clyde Steamship Co. to Charleston in connection with the rail routes from Savannah and Charleston; the Pennsylvania Railroad via Alexandria, Harrisburg, and Hagerstown, Norfolk in connection with
142 the rail routes from Alexandria, Harrisburg, Hagerstown, and Norfolk; the B. & O. via Shenandoah Junction in connection with the rail lines from that junction.

From Baltimore: The Bay Line of steamers to Norfolk and Portsmouth, Merchants & Miners' Transportation Co. to Savannah, in connection with the rail lines from Norfolk, Portsmouth, and Savannah. The Pennsylvania Railroad via Alexandria, Harrisburg, Hagerstown, and Norfolk and via Richmond with the Richmond, Frederick and Potomac Railroad in connection with the rail lines from Alexandria, Hagerstown, Harrisburg, Norfolk, and Richmond.

In addition to the regular steamer lines already enumerated from Boston, New York, Philadelphia, and Baltimore there are at all times numerous sailing vessels from Boston, New York, Philadelphia, and Baltimore to South Atlantic ports.

6. Q. State what lines actually and actively competed in 1892 and now compete from the Ohio River points and sections of the country other than New York, Philadelphia, &c., in the transportation to Atlanta of freight classified as classes 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

The following lines actually and actively compete from the Ohio River points as enumerated for the transportation of all classes of freight and commodities from Atlanta to Cincinnati:

Cincinnati, New Orleans & Texas Pacific Railroad Co. via four different routes.

Louisville & Nashville Railroad Company via five different routes.

Baltimore & Ohio Southwestern Railroad Co. via five different routes.

From Louisville: Louisville & Nashville Railroad Co. via three different routes. Southern Railway via two different routes. Illinois Central via five different routes.

From Illinois, Evansville, and Henderson: Louisville & Nashville Railroad Co. via three different routes. Ohio Valley in connection with Illinois Central via five different routes.

From Paducah: Nashville, Chattanooga & St. Louis Railway Co. via three different routes. Illinois Central via five different routes.

143 From Cairo: Nashville, Chattanooga & St. Louis Railway Co., via three different routes; Illinois Central, via six different routes; Mobile & Ohio Railroad Co., via eight different routes.

As to the lines actually and actively competing to Atlanta, on all classes and commodities from sections other than Ohio River crossings, they are too numerous to specify; however—

The Baltimore & Ohio Southwestern Railroad Co.,
Cincinnati & Muskingum Railroad Co.,
Cincinnati, Hamilton & Dayton Railroad Co.,
Cincinnati, Jackson & Mackinaw R. R. Co.,
Cincinnati, Lebanon & Northern,
Cincinnati Northwestern Railroad Co.,
Cincinnati, Portsmouth & Virginia Railroad Co.,
Cleveland, Cincinnati, Chicago & St. Louis Railroad Co.,
Erie Railroad Co.,

And the Pennsylvania Railroad Co., are terminal lines at Cincinnati, reaching that point from north, east, or west.

The Chicago, Indianapolis & Louisville Railroad Co.,
Baltimore & Ohio Southwestern Railroad Co.,
Cleveland, Cincinnati, Chicago & St. Louis Railroad Co.,
Pennsylvania Railroad Co.,
Louisville, Evansville & St. Louis Railroad Co.,

Louisville, Henderson & St. Louis Railroad Co., are terminal lines at Louisville, reaching that point from the north, east, or west.

The Louisville & Nashville R. R., Evansville & Terre Haute,
Louisville, Evansville & St. Louis Railroad Co.,

Peoria, Decatur & Evansville Railroad Co., are terminal lines at Evansville, with a bridge transfer at Henderson, reaching those points from the north or west.

The Illinois Central is a terminal line at Paducah from the north.

The Cleveland, Cincinnati, Chicago & St. Louis Railroad Co.,
Illinois Central Railroad Co.,
Mobile & Ohio Railroad Co.,
St. Louis, Iron Mountain & Southern Railroad Co., and

The St. Louis Southwestern Railroad Co., are terminal lines at Cairo, reaching that point from the north and west.

All these lines, with terminal at Cincinnati, Louisville, Evansville, Henderson, Paducah, and Cairo compete in connection with lines leading south from these Ohio River crossings for all Atlanta traffic

144 originating on their lines or through their connections in territory east and north of them, and west of them as far as the Pacific coast.

7. Q. State whether or not the Louisville & Nashville Railroad Company and its connections actually and actively compete for the carriage of freight of said various classes to Atlanta; and, if so, from what cities.

A. The Louisville and Nashville Railroad and its connections actually and actively compete in the carriage of freight of the various classes to Atlanta from all cities and territories in the last preceding answers.

7½. Q. Does your railroad or its connections have agents at said cities to solicit said freight to Atlanta?

A. The Louisville & Nashville Railroad or its connections have agents in the cities in the territory mentioned to solicit freight to Atlanta.

8. Q. Does your railroad or its connections advertise at said cities for the transportation of said freight to Atlanta?

A. The Louisville & Nashville and its connections, by means of tariffs and other publications, advertise for the transportation of freight to Atlanta from all the cities in the territory already described.

9. Q. State whether the rates on freight of the various classes from New York, Philadelphia, &c., to Atlanta are controlled to any, and if so, to what, extent by competition.

A. The rates of freight on the various classes from New York, &c., to Atlanta are wholly controlled by competition.

10. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. The rates of freight of the various classes from New York to Atlanta are wholly controlled by competition between the numerous carriers, as previously enumerated, and that competition is especially aggravated by the coastwise competition of steam and sail from the North Atlantic seaboard to the South Atlantic coast points.

11. Q. State whether there is any such competition at Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain as there is at Atlanta.

A. There is no such competition at Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain as at Atlanta and Augusta, but the competition that compelled existing rates to Augusta and Atlanta is recognized in fixing rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, and so far east as the car-

145 riage up to Atlanta and Augusta is concerned, traffic to these points is as competitive as if destined to Atlanta and Augusta proper.

12. Q. Were the Clyde Steamship Company and what was formerly known as the South Carolina Railway Company and the Georgia Railroad and Banking Company and the Louisville & Nashville Railroad Company and the Central Railroad and Banking Company of Georgia under any common control or management in 1892, or have they ever been since that time?

A. The Clyde Steamship Company and what was formerly known as the South Carolina Railway Company and the Georgia Railroad and Banking Company, and the Louisville & Nashville Railroad Company and the Central Railroad and Banking Company of Georgia were not in 1892 nor have they been since under any common control or management.

13. Q. I believe the Central Railroad and Banking Company and the Louisville & Nashville Railroad Company were coassignees of the lease of the Georgia Railroad, were they not?

A. They were in 1892, but I understand they are not now.

14. Q. State whether the number of tons carried one mile or the num-

ber of tons carried of freight-earning revenue or the average receipts per ton per mile or the estimated cost of carrying one ton one mile can be used either separately or jointly as the standard in railroad rate making, and state your reasons for it.

A. The items cannot be used as a standard for railroad rate making in fixing an adjustment of rates between any two or more points. Rates have to be made on all classes of freight so as to cover anything that might be offered for transportation, and not knowing the tonnage that will move under each class or the aggregate tonnage that will be moved under all classes or the percentage the aggregate tonnage stands to the total tonnage of the road, it is impossible to consider the rate per ton per mile or the average receipts per ton per mile in fixing rates between any two or more points; and, independent of this, competition compels the carrier frequently to fix rates without regard to any one or more of the specific items of your inquiry.

15. Q. Explain the basis of making rates from New York, Philadelphia, &c., to Atlanta. Are the rates fixed by the Georgia railroad commission from the Georgia seacoast to Atlanta taken into consideration?

A. In making the rates from New York and Philadelphia to Atlanta, the coastwise rates by steam and sailing vessels from these cities to South Atlantic coastwise points, Charleston and Savannah and Brunswick, added to the rates from those ports fixed by the Georgia railroad commission are a controlling factor.

146 Cross-examination by Mr. SHAVER:

1. Q. You have stated in substance in your direct examination that certain-named reductions in rates from New York via the Ocean Steamship Company to Charleston, and thence through Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, would not have the effect of increasing traffic to those points, did you not?

A. Yes, sir.

2. Q. As a reason for this you stated it would not increase consumption?

A. Yes, sir.

3. Q. Do not cheap prices increase the consumption of articles of merchandise?

A. These points simply supply a local consumption and the reduction in rates would not increase the movement of meats or coffee or calicoes or anything of that sort.

4. Q. Do not reductions in rates enable merchants to sell the goods cheaper?

A. No, sir; reducing the rates from these Eastern cities to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain to the same as the rates from the Eastern cities to Atlanta would not enable the merchants at these points to sell their goods any cheaper than they do now. For instance, it would make a reduction of thirty cents on first-class from New York to Greensboro, and even if the merchants might be willing they could not possibly divide that up among the great many yards of calico it takes to make a hundred pounds of freight.

5. Q. Thirty cents per hundred pounds would amount to $6 a ton, would it not?

A. Yes, sir.

6. Q. Would not these same reductions in rates, about which inquiry was made of you, benefit the merchants at Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain?

A. It would benefit the merchants individually without benefiting the consumers.

7. Q. Would not the prosperity of the merchants at these points benefit those localities?

A. I believe the merchants are about as prosperous as they would be under lower adjustment of rates.

8. Q. Does not a low rate to a given point induce the investment of capital there and induce population to that point; is not the tendency of low rates in that direction?

A. The rates to Greensboro——

147 9. Q. I asked you the abstract question, if that is not the tendency of lower rates?

A. I do not think the question is involved in the present case. I do not think a reduction in the rates to these particular points would increase population or business.

10. Q. Does not Atlanta enjoy lower rates than the surrounding points in all directions, and has not this been the case for a long series of years?

A. The rates from Eastern cities to Atlanta are in line with the rates from Eastern cities to other competitive points in other territories.

11. Q. That is not responsive to my question. Mr. Stenographer, please read the question.

(The question was read to the witnesss.)

A. Atlanta does not enjoy lower rates from Eastern cities than from from points in that vicinity competing with it for trade in the same territory as Rome, Birmingham, Macon, &c.

12. Q. Does not Atlanta enjoy lower rates than Stone Mountain, Conyers, Covington, Social Circle, Madison, and Greensboro on the Georgia Railroad, and Calhoun, Adairsville, Kingston, Cartersville, Acworth, and Marietta on the Western & Atlantic Railroad, and Newnan, Grantsville on the Atlanta & Western Railroad, and Jonesboro, Hampton, and Griffin on the Central Railroad of Georgia?

A. Atlanta enjoys lower rates from the East to the points you mentioned, but those points do not compete with Atlanta for the distribution of freight.

13. Q. If those points had the same rates as Atlanta given them, could they not compete with Atlanta for the trade?

A. No, sir.

14. Q. Has not Atlanta been benefited by the lower rates to Atlanta than to these surrounding points in all directions?

A. It has enabled it to distribute freight to points within its territory.

15. Q. You mentioned, I believe, in your direct examination, a number of lines from Northeastern cities that could be formed to Atlanta. Can not the same lines be formed to Stone Mountain, Covington, Conyers, Social Circle, Madison, and Greensboro, with the Georgia Railroad as a terminal carrier?

A. Traffic for Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain up to Atlanta, the base point, is as competitive as the traffic consigned to Atlanta proper.

16. Q. Does not the Georgia Railroad connect at Atlanta with all these lines which you named?

A. It does.

148 17. Q. You stated in your direct examination that the average receipts per ton per mile and the estimated cost of carrying per ton per mile of freight in general furnished no standard from which could be ascertained what is a reasonable rate in a given case?

A. No, sir; I stated that was not a standard in the making of rates.

18. Q. Are they standards in determining the reasonableness of a rate in a given case?

A. They may be a factor in some cases to judge it by, but they would not be a standard.

19. Q. How long have the roads been in the habit of making out these data—the average per ton per mile and the estimated cost of carrying one ton per mile?

A. For as long as I have been connected with the railroads.

20. Q. You have been connected with them since 1880?

A. Yes, sir.

21. Q. What use do the roads make of these data?

A. It gives them a chance to know what the average rate per ton per mile is that they realize on their entire traffic that may be used for other purposes.

22. Q. These data are the result of calculation, are they not?

A. Yes, sir.

23. Q. From the present rates from New York via the Clyde Steamship Company to Boston and thence via the South Carolina Railway to Augusta and thence via the Georgia Railroad to Atlanta pay operating expenses?

A. I think they do.

24. Q. Do they pay anything over and above operating expenses?

A. I think they do.

25. Q. How do you determine whether a given rate is reasonable or unreasonable?

A. If a point under any prevailing adjustment of rates is able to hold and develop its trade, I regard such an adjustment of rates as reasonable.

26. Q. Is a rate reasonable which does not yield the carrier a proper remuneration over and above the cost of service?

A. I do not believe carriers make rates below the cost of transportation. I would consider such a rate as unreasonably low.

27. Q. It would not, then, be a reasonable rate unless it yielded a remuneration over and above the cost of service?

A. It would be an unreasonably low rate.

149 28. Q. Is not therefore the expense of cost of the service an element to be considered in determining the reasonableness in and of itself of a given rate?

A. I presume when we get rates down to a certain point that element would be considered a factor.

29. Q. Does not the cost or the expense of the service of transportation

depend largely, or to some extent, on the length of the haul, other things being equal?

A. Distance is a factor, but not a controlling one.

30. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Not necessarily; through traffic for the longer haul is handled in less time than local traffic for the shorter haul.

31. Q. I stated, other things being equal—that is, the same rate of speed for the long haul as for the short haul—is not the consumption of time greater the greater the distance?

A. The consumption of time is a factor in the expense, of course, like everything else.

32. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. It is one of the items of expense.

33. Q. The answer to that is yes, I suppose?

A. Yes, sir.

34. Q. Is not the wear and tear on locomotives, cars, tracks, road-bed, etc., greater the greater the length of the haul?

A. That is another item of expense.

35. Q. Is not the cost of keeping the road in repair or in good condition greater the greater the length of the road, other things being equal?

A. Yes, sir; the longer the road the larger the total expenses of maintaining the road.

36. Q. Does it not require more locomotives, cars, and more crews for the running of trains on a long road than on a short one, as a general rule?

A. That depends largely on the amount of traffic you have got to handle.

37. Q. Other things being equal, does not distance add to the cost of building the road, and are not therefore the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. It costs more to build a 500-mile road than a 50-mile road, and the fixed charges on a 500-mile road would be greater than on the 50-mile road, although the charges may not be greater per mile.

150 38. Q. Is not the service more valuable to the shipper the greater the length of the haul? In other words, will not a haul of 100 miles give a shipper markets for goods or produce which he will will not have in a haul of 50 miles?

A. If you mean by that that a 100-mile road to a shipper at Nashville for the distribution of his merchandise is of more value than a road only 50 miles in length, for instance, that is true.

39. Q. Are the rates from New York via Charleston and Augusta, Stone Mountain, Covington, Conyers, Social Circle, based on the rate to Atlanta?

A. The rate from Eastern cities to Greensboro based on Augusta; likewise do the rates to Madison; to Social Circle, first, second, and Class B based on Atlanta, the other classes on Augusta; to Covington, classes 1, 2, 3, A, and B based on Atlanta, the balance of the classes on Augusta; to Conyers, the rates on classes 1, 2, 3, 4, and 5, A, B, and H based on Atlanta, the other classes on Augusta; to Stone Mountain the

rates based on Atlanta, except Classes C, D, and F, which are based on Augusta.

40. Q. When rates are based on Atlanta, they consist of the through rate to Atlanta plus the local rate back to these points?

A. Yes, sir.

41. Q. Is not traffic transported from New York via the Clyde Steamship Company to Charleston, and thence via the South Carolina Railway to Augusta, and thence over the Georgia Railway to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain under a through bill of lading naming an aggregate through rate issued by the initial carrier at New York?

A. I assume it is, but I could not answer positively. The Louisville & Nashville Railway does not participate in that traffic.

42. Q. Is not the expense to the carrier in strictly local hauls in less than carloads greater per ton per mile than on long through hauls?

A. Yes, sir; it is more expensive to handle local business than the through business

43. Q. Were not the rates to Atlanta via the lines from New York above named to Atlanta established originally by agreement between the carriers composing those lines as members of the Southern Railway & Steamship Association?

151 A. That is my understanding; that they were originally so made.

44. Q. Are not the rates by all the lines from New York to Atlanta the same?

A. I believe they are.

45. Q. Were not the rates by all these lines originally established by agreement between those lines as members of the Southern Railway & Steamship Association?

A. I think originally they were, so far as they controlled it against water competition.

46. Q. Does the railroad commission of Georgia attempt to fix through rates on interstate commerce or any proportion of those rates?

A. No, sir.

47. Q. Why is the excess of the rate from New York by the lines above named on certain classes of goods to Stone Mountain, Conyers, Covington, and Social Circle fixed by the local rate from Atlanta back to those points?

A. It can not be made higher.

48. Q. Are the local rates in those instances, between Atlanta and Stone Mountain, Conyers, Covington, Social Circle, the measure of the influence of competition in reducing the Atlanta rate?

A. Traffic between Atlanta and Stone Mountain, Covington, Conyers, and Social Circle is not competitive, but in fixing rates from eastern cities to these local points, these local points are given the benefit of the competition that compels the existing rate to Atlanta and Augusta.

49. Q. Does not this combination of local and through rates, in fixing the rate to Stone Mountain, Conyers, Covington, and Social Circle, enable the Atlanta merchants to ship goods from New York through those points to Atlanta and then back to those points at the same aggregate rate as they can be shipped from New York to those points in the first instance?

A. Only in cases where the rate is based on Atlanta.

50. Q. Does not this enable the Atlanta merchants to compete with the merchants of Stone Mountain, Conyers, Covington, and Social Circle in those points and in the territory adjacent?

A. The Atlanta jobbers only sell to merchants at those points and do not supply the local consumption at and around them.

152 51. Q. Do not merchants at those local points now for the most part get their supply of goods direct from New York and other northern cities.

A. I could not say.

52. Q. Under existing rates can merchants at the shorter-distance points, Stone Mountain, Covington, Conyers, Social Circle, etc., sell goods at Atlanta and in the territory adjacent in competition with Atlanta merchants?

A. The merchants at those points do not compete with jobbers of Atlanta.

53. Q. Would the carriers charge higher than the present rates to Atlanta from New York and other northeastern cities if competition affecting the transportation to Atlanta did not exist?

A. If competition at Atlanta was eliminated I think higher rates would be charged.

54. Q. Would that be because the present rate, viewed from the standpoint of the value and cost of service, would be unreasonably low?

A. Not necessarily.

55. Q. Are not the present rates to Atlanta from New York and other northeastern points, viewed from the standpoint of the value and cost of the service and excluding competition as an element in fixing them, unreasonably low?

A. No, sir; I do not think they are unreasonably low.

56. Q. Still, you say the roads would increase them if there was no competition—if competition was eliminated?

A. Yes, sir; they are low, but not unreasonably low.

57. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Ohio and Potomac rivers?

A. Since 1882.

58. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter being included in the longer, ever to your personal knowledge been made in that territory, before or since the enactment of the act to regulate commerce in 1877, except in cases of competition in transportation to the longer-distance point?

A. So far as my knowledge goes no exception has been made in making a greater charge for the shorter than for the longer distance under dissimilar circumstances and conditions.

59. Q. Is not competition in transportation the only ground or reason for making a higher rate for a shorter than for a longer haul over the same line in the same direction, the shorter being included in the longer?

153 A. Competition is a controlling factor.

60. Q. Is there any other factor? And if so, state it.

A. No, sir; it is a controlling factor. I do not mean by that simply the competition between carriers, but also competition between markets.

61. Q. If all the roads or lines reaching to Atlanta from New York and other Northeastern cities made no greater charge to the shorter distance points on their lines than Atlanta, would there be any necessity for such greater charge to shorter distance points by any one of such roads or lines in order to prevent loss of traffic?

A. An advance in the rates from Eastern cities to Atlanta to the figures established to Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain would result in the diversion of the Atlanta traffic from the established lines to tramp ships, sail or steam, coastwise to the South Atlantic ports, the rates from the ports to Atlanta being fixed.

62. Q. I believe you stated that Madison and Social Circle were junction points?

A. Yes, sir.

63. Q. What roads connect at Madison?

A. The Central Road of Georgia crosses the Georgia road at Madison.

64. Q. And what roads lead to Social Circle or pass through Social Circle?

A. The Gainesville, Jefferson and Southern Railway running from Gainesville; that is a terminal line at Social Circle.

65. Q. Do not these different roads compete for traffic to Madison and Social Circle?

A. Traffic for these points up the base point is as competitive as traffic destined to the base point proper.

Redirect examination by Mr. BAXTER:

1. Q. Please examine copy of the report made by the Louisville & Nashville Railroad Company to the Interstate Commerce Commission for the year ending June 30, 1893, here shown you (exhibiting report to witness), and from page 17 state the amount of dividends declared that year.

A. $2,112,000.

154 2. Q. Refer to page 19 of the same report and state the amount of interest paid by the said company upon the funded debt during said year.

A. $4,233,978.38.

3. Q. Refer to page 45 of said report and state the amount paid by said company during that year for operating expenses.

A. $14,670,055.07.

4. Q. Taking the rates allowed by the Louisville & Nashville Railroad Company upon its entire line of traffic, passenger as well as freight, to and from all points and upon all the classes, is it true that the revenue derived from that total line of rates would have to be sufficient to pay the amounts shown by that report to have been paid out for dividends, interest on the funded debt, and operating expenses?

A. Yes, sir.

5. Q. Now suppose a rate upon a particular class of traffic between any two specified points is sufficient to pay its due proportion of operating expenses and interest upon the funded debt, but is not sufficient to pay its proportion of those two items and also its proportion of the dividends, would you consider the company justified in working for that rate?

A. Yes, sir; if it paid something over and above the cost of handling.

6. Q. Now, suppose a rate upon a particular class of traffic between particular points is not sufficient to pay its proportion of dividends or its proportion of the funded debt, but will pay more than its proportion of the operating expenses, would you decline that traffic?

A. No, sir.

7. Q. Do you know or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. No, sir.

Recross-examination by Mr. SHAVER:

1. Q. If a given rate to a given point is not high enough to pay operating expenses on the traffic to that point, does not a part of those operating expenses have to be borne by the traffic to other points?

A. We do not mean to take business that will not pay operating expenses.

2. Q. If a given rate to a given point does not pay operating
155 expenses and also something on the dividend and fixed charges, would not a part of the burden of paying those dividends and fixed charges which ought to be borne by the traffic to that point have to be borne by the traffic to other points?

A. I think not, sir. Where freight pays the additional expense in handling it, it is no burden upon any other traffic.

3. Q. I asked if the payment of dividends and of interest on investment, etc., which are known, I believe, as fixed charges, if a part of that burden which ought to be borne by the traffic to a given point, the rate on which does not pay any part of that burden, would it not have to be borne by the traffic to other points?

A. I can not answer differently from what I have done; that is, that traffic that pays the additional expense of handling is not a burden upon those items.

4. Q. As a general rule, ought traffic to all points bear a certain proportion of the burden of the fixed charges?

A. I fancy that is the way everybody would like to have it.

5. Q. I asked if that ought not to be the case as a general rule?

A. Well, there are exceptions to all rules, and, as I said, it would be a very desirable rule.

6. Q. That would be equitable and just, would it not?

A. Yes, sir; it would be equitable and just, but the conditions under my previous answer are not inequitable.

FORT MONROE, VA., *June 23, 1897.*

T. S. DAVANT, a witness on behalf of the defendant, having been duly sworn, testified as follows:

1. Q. State your name, age, residence, and occupation.

A. T. S. Davant, general freight agent Norfolk & Western Railroad Company; residence, Roanoke, Va.; age, 47 years.

2. Q. How long have you been connected with the railroad traffic departments in this country?

A. I entered the railroad service in 1865. I have been in charge of the traffic departments of various roads since 1874.

3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain more than to Atlanta. The rates from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and Atlanta were,
156 as shown by the report and opinion of the Commission, as follows, in 1892:

	Classes.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	64	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	44	43	69	87	86
Conyers	138	119	105	90	74	59	47	59	44½	43	70	85	87½
Stone Mountain	132	114	101	85	71	58	45	57	47	44	69	80	89½
Atlanta	114	98	86	78	60	49	36	48	40	39	58	68	78

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

A. I do not believe the reduction in the rates would have the effect of increasing the business sufficiently to compensate the carriers for making the reduction. This opinion is based upon a general knowledge of the business which has been acquired by years of experience in the transportation of freight shipped from the East to the South.

4. Please state whether said rate from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are just and reasonable or unjust and unreasonable. Give your reasons for any opinion you may express.

A. I believe that the rates are just and reasonable, because they are in line with the rates that are published from the same points of origin to similarly located points of destination on other roads in the same section of country, and also because they are made up of two separate rates, which are each reasonably low, namely, the rates from New York and Philadelphia, etc., to Augusta and Atlanta, which are controlled by water competition to and through the ports of Savannah and Brunswick, and the low rates made by the Georgia railroad commission within
157 the State of Georgia from Augusta to Atlanta to the several points of destination.

5. Q. State what lines actually and actively competed in 1892 and now compete from New York and Philadelphia, etc., in the transportation to Atlanta, Ga., of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. The following lines actually and actively competed in 1892 and do now compete for freight shipped to Atlanta from New York, Philadelphia, etc.:

The Mallory Steamship Line via Brunswick.

Ocean Steamship Company via Savannah.
The Merchants and Miners' Transportation Company via Norfolk.
The Clyde Steamship Company via Charleston.
The Atlantic Coast Line via Norfolk (rail and water line).
The Seaboard Air Line via Norfolk (rail and water).
Piedmont Air Line (rail and water) via Norfolk.
The Virginia, Tennessee and Georgia Air Line via Norfolk (rail and water).
The Richmond and Danville Despatch via Alexandria (all rail).
Great Southern Despatch via Hagerstown (all rail).
The Southern State Despatch via Hagerstown (all rail).

6. Q. State what railroads or other transportation lines actually and actively competed in 1892 and now compete for the transportation of said classes of freight to Atlanta, Georgia, from Ohio River points to sections of the country other than New York, Philadelphia, &c.

A. The following railroads, in connection with boats on the Ohio River and with railroads penetrating the territory north of that river, actually and actively competed in 1892 and do now compete in the transportation of freight to Atlanta:

The Norfolk & Western Railroad.
The Chesapeake & Ohio Railway.
The Cincinnati, New Orleans and Texas Pacific Railway.
The Louisville & Nashville Railroad.
The Southern Railway.
The Illinois Central Railroad.
The Mobile & Ohio Railroad.
The Kansas City, Memphis and Birmingham Railroad.
The Memphis & Charleston Railroad.
The Nashville, Chattanooga & St. Louis Railway.
The Western & Atlantic Railroad.

7. Q. State whether or not the Norfolk & Western Railroad and its connections actually and actively compete for the carriage
158 of freight of said classes to Atlanta, and if so, from what cities.

A. The Norfolk & Western Railroad and its connections for Atlanta business from Columbus, Ohio; Pittsburg, Pennsylvania; Harrisburg, Pennsylvania; Baltimore, Maryland; Philadelphia, Pennsylvania; New York, New York; Boston, Massachusetts; Norfolk, Virginia; Richmond, Virginia, &c.

8. Q. Does your railroad or its connections have agents at said cities to solicit said freight for transportation to Atlanta?

A. Yes, sir.

9. Q. Does your railroad or its connections advertise in said cities for the transportation of said freight to Atlanta?

A. Yes, sir.

10. Q. State whether the rates of freight of the various classes from New York, Philadelphia, etc., to Atlanta are controlled to any, and if so, to what, extent by competition.

A. The rates of freight from New York, Philadelphia, &c., to Atlanta are controlled by competition.

11. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. The competition between carriers does substantially affect the circumstances and conditions under which the transportation of freight is conducted.

12. Q. Is there any such competition at Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain as exists at Atlanta?

A. No, sir.

Q. State whether the number of tons carried one mile, or the number of tons carried of freight earning revenue, or the average receipts per ton per mile, or the estimated cost of carrying one ton per mile can be used, either singly or together, as a standard in railroad rate making. Give your opinion for any reasons you may express on that point.

A. The number of tons carried one mile, or the average receipts per ton per mile, or the estimated cost of carrying one ton one mile can not be used, either singly or together, as a standard in railroad rate making for the reason that the tariff anticipates the doing of the business, while these results can only be ascertained after the business is done. In other words, owing to the innumerable and variable conditions which effect and make up the cost of transportation, it is impracticable to make the cost of business already done the basis for making tariff that are necessarily prospective in their application.

159 14. Q. Explain in the basis of making rates from New York Philadelphia, &c., to Atlanta. Are the rates which are fixed by the Georgia railroad commission from the Georgia seacoast to Atlanta taken into consideration?

A. The basis of making rates from New York, Philadelphia, &c., to Atlanta, which was observed in 1892 and is still observed, was the result of years of experiment, rate wars, compromises, &c. While said rates are not made on the Savannah or Brunswick combination themselves, the rates made by the water carriers from New York, Philadelphia, &c., to Savannah or Brunswick plus the rates authorized by the Georgia commission from said ports to Atlanta, they are and have been made with reference to such combinations, and while not unreasonable in and of themselves, are as high as they can be maintained by reason of the conditions referred to. As it is, it frequently happens that freight important in volume is taken from the Eastern cities to these Georgia points by steamship or sailing vessels at very low rates and then reshipped to Atlanta at the local rates, thus making the through rate.

15. Q. State whether the rates which have been and can be made by the trunk lines from Cincinnati to Baltimore and other Eastern cities and then by steamship or sailing vessels and thence by the Georgia Railroad to Atlanta, control the rates which can be charged by the direct rail line operating from Cincinnati to Atlanta.

A. I do not know that freight is ever shipped in the manner stated, but it is entirely practicable to do so.

Cross-examination by Mr. SHAVER:

1. Q. You stated in your direct examination that certain named reductions in the rates from New York to Brunswick, Madison, Social Circle, Covington, Conyers, and Stone Mountain would not, in your opinion, increase the business at those stations sufficiently to compensate carriers, I beli've?

A. Yes, sir.

2. Q. Would not such reductions result in some increase of business at those points?

A. I think it is fair to assume that there would be some increase, but from my knowledge of the general situation and the conditions—the territory which surrounds these small stations, interior stations—I am satisfied that there would be no material increase in the business.

3. Q. With those reductions in rates to those points, their rates would not be higher than the Atlanta rates, I believe. Is that so?

160 A. If, as I understand, the proposition is that the rate from New York, Philadelphia, &c., to these stations shall not be higher than the rate to Atlanta, my answer to your question is yes.

4. Q. I ask you if these named reductions which Mr. Baxter inquired about to these points, if made, would not make their rates the same as to Atlanta?

A. Yes, sir.

5. Q. Do Atlanta merchants now trade at those points and in the territory adjacent?

A. I think they do. I think Atlanta merchants do.

6. Q. If those reductions were made and the rates at those points then became not higher than the Atlanta rates, could the Atlanta merchants trade at those points and in the adjacent territories to the same extent they now do, in competition with merchants at those points?

A. I do not think the same rates from Eastern cities to Greensboro, &c., would materially affect the rates of Atlanta with those points. There are several reasons for that. These merchants engaged in business at these small stations are men of limited capital, and they can not carry stocks of goods that are necessary to supply the trade of the contiguous territory. The fact that the Atlanta merchants are men of capital, have the means of carrying large stocks of goods from which not only the country people themselves but the country merchants draw their supplies from day to day as they are needed, gives them the hold upon that trade, which I think would not be disturbed to any serious extent by the reduction in rates suggested.

7. Q. If the merchants at Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain had the capital that the Atlanta merchants have, could they not ship their goods then direct from New York, having the same rates as Atlanta?

A. Yes, sir.

8. Q. Could they not in that case successfully compete with Atlanta for business in their own localities and adjacent thereto?

A. Assuming that the local merchants at those places named had the capital and other facilities for extending the same accommodations to the trade contiguous to those points, why, with the same rates from New York as Atlanta they could take the place of the Atlanta merchants.

9. Q. Is not the tendency of giving a locality lower rates to induce capital to invest at such local points and to induce population to come to such localities?

A. That has not been my experience.

10. Q. Is not the tendency of rates which discriminate against

161 one locality in favor of another locality for business in the same territory to drive away capital and population from the locality

discriminated against and to build up the locality in whose favor the discrimination is made?

A. Whatever discrimination in rates may exist is, in my judgment, based upon the natural advantages which one locality may have over another, and the process of simply leveling the rate would not have the effect of overcoming the natural disabilities of the different places.

11. Q. Has not Atlanta been built up to a large extent by the railroad?

A. Yes, sir; that is my judgment.

12. Q. Is not Atlanta located in a poor country, agriculturally speaking?

A. Atlanta is perhaps less favorably situated in that respect than some other cities, but still she draws from all important agricultural cities on all sides of her.

13. Q. Is the territory immediately adjacent to Atlanta richer in soil or in minerals than the territory immediately adjacent surrounding Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain?

A. I do not know that it is.

14. Q. Does not Atlanta enjoy the advantages of lower rates than those given points immediately around Atlanta on traffic from all directions?

A. In a general way, yes.

15. Q. You stated in your direct examination that the average receipts of a road per ton per mile and estimated cost of carrying a ton a mile on traffic in general furnished no standard by which you could fix what was a reasonable rate to be operated in the future. Is not such data valuable, to a certain extent, in determining the reasonableness of a rate already in existence?

A. Measurably, yes, sir.

16. Q. You mentioned in your direct examination a number of lines which could be formed by various combinations of roads and steamship lines from New York to Atlanta and Augusta, I beli've—both of these points.

A. I did to Atlanta. The same condition applies to Augusta.

17. Q. Can not the same lines be formed to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain with the Georgia Railroad Company as a terminal carrier to those points; or, in other words, does not the Georgia Railroad connect at Atlanta and Augusta with all these lines which you have named?

A. It is my understanding that all the lines that I have named
162 as competing for Atlanta business do not and can not compete for business to Greensboro, &c.

19. Q. I asked you, and ask you again, if the Georgia Railroad does not connect at Atlanta with all the roads to that point?

A. Yes, sir.

20. Q. Is not the same thing the case at Augusta?

A. Yes, sir.

21. Q. Does the Georgia Railroad Commission undertake or has it any authority to fix through rates on interstate commerce or any proportion of said rates?

A. No, sir.

22. Q. The action of the Georgia Railroad Commission is confined to local rates upon traffic between points in Georgia, is it not?

A. The rates are made between points in Georgia; yes, sir.

23. Q. You stated that the rates which you named from New York & Philadelphia on different classes to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain were reasonable in and of themselves.

A. Yes, sir.

24. Q. Are the much lower rates from those cities through Greensboro, Madison, Social Circle, Conyers, Covington, and Stone Mountain to Atlanta also reasonable in and of themselves, or do you think them unreasonably low?

A. I think the rates from Eastern cities to Atlanta are reasonable in and of themselves.

25. Q. Do you think they are reasonable in themselves viewed solely from the standpoint of the cost and value of the service?

A. No, sir; not alone that. I think the amount of business involved on the principle that the greater the volume of business the lower the rates can be made—in other words, if lower basis of rates will induce a large volume of business, as long as the rates are reasonable in themselves, why, it is to the advantage of the carrier to encourage the greater volume of business.

26. Q. My question was: Do you consider the rates solely from the standpoint of the cost and value of the service to Atlanta from New York and Philadelphia reasonable and just in and of themselves?

A. No, sir.

27. Q. Is the expense of the service of carriage an element to be considered in determining what is a reasonable rate?

A. Yes, sir. It is very hard to get at, but some regard has to be had for it.

28. Q. Does the cost or the expense of the service or transportation depend largely on the length of the haul, other things being equal?

163

A. Yes, sir.

29. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Yes, sir.

30. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. Yes, sir.

31. Q. Is not the wear and tear on locomotive, cars, track, roadbed, etc., greater the greater the length of the haul?

A. I am not a machinist, but I should think that was the case.

32. Q. Other things being equal, is not the cost of keeping the road in repair or in condition the greater the length of the road?

A. I really do not know how to answer that question, because it is entirely out of my jurisdiction.

33. Q. Does it not require more locomotives and cars and more crews for running trains on a long road than on a short one, other things being equal?

A. I would think so.

34. Q. Other things being equal, does not distance add to the cost of building a railroad, and are not, therefore, the fixed charges, such as interest on capital invested, greater the greater the length of the road?

A. I should think so; yes.

35. Q. Is not the service more valuable for the shipper the greater the length of the haul? In other words, will not a haul of 100 miles give a shipper a market for his goods or produce which a haul of 50 miles will not?

A. It seems to me that that question will have to be answered from the shipper's point. To the shipper who has his wares to market a fifty-mile haul is as much importance to him as another shipper who has his wares to market on a hundred-mile haul.

36. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Ohio and Potomac rivers?

A. 32 years.

37. Q. That territory east of the Mississippi and south of the Ohio and Potomac rivers was what was known as the territory subject to the jurisdiction of the Southern Railway & Steamship Association, was it not?

A. For part of that time, yes. But that has not been continuously the case.

164 38. Q. Has the greater charge for the shorter than the longer haul over the same line in the same directions, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory before or since the enactment of the act to regulate commerce in 1887, except in the case of competition in transportation to the longer distance point?

A. As a rule, competition is the controlling factor when higher rates are charged for the shorter than for the longer distance, but there are other conditions which also control in the matter.

39. Q. In connection with the competition?

A. Yes, sir.

40. Q. Competition is invariably present in such cases?

A. Yes, sir.

41. Q. That was before and since the passage of the act to regulate commerce?

A. Yes, sir; the same conditions exist.

42. Q. Is not traffic transported from New York and other Northeastern cities via the Clyde Steamship Line to Charleston, thence by the South Carolina Railway to Augusta, and thence via the Georgia Railway to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain under a through bill of lading naming the aggregate through rate issued by the initial carrier?

A. I think so.

43. Q. Is not the expense to the carrier of strictly local hauls in less than carloads greater per ton per mile than on long through hauls?

A. Yes, sir.

44. Q. Are not local rates made higher than through rates to cover the extra expense of local hauls?

A. Not only the local hauls, but there are other conditions. It is generally known that the cost of handling local business is more expensive than handling through business. Then, again, the fact that the volume of through business is oftentimes much larger than that of the local business is another element which is taken into account in adjusting the local and through rates.

45. Q. The expense is one of the elements that causes local rates to be more than the through rates for the same distance?

A. Yes, sir.

46. Q. Are not the through rates by all the lines from New York and other Northeastern cities to Atlanta the same, generally speaking?

A. Yes, sir.

165 47. Q. Were they not established by agreement between those lines as members of the Southern Railway Steamship Association?

A. Yes, sir; of course, the circumstances which I have referred to as controlling the aggregate or maximum rate had to be taken into consideration.

48. Q. Atlanta is within the territory which was formerly said to be under the jurisdiction of the Southern Railway and Steamship Association, is it not?

A. Yes, sir.

49. Q. Are not the rates from New York on the lines involved in this case to Greensboro, Madison, Social Circle, Covington, Convers, and Stone Mountain made up of the through rates to Augusta or Atlanta plus the local rate on to or back to those points?

A. I have already stated that was the case.

Redirect examination by Mr. BAXTER:

1. Q. In competing for the transportation of freight, can rates be fixed in proportion to the cost of service by the competing carriers?

A. No, sir.

2. Q. If one competing line is 100 miles long and the other competing line is 200 miles long, and the cost of service is twice as much upon one line as it is upon the other, must not the two lines compete at substantially the same rates, or one or the other go out of the business?

A. Yes, sir. There is no rule about it, but it is pretty generally observed throughout this country that the short line between two points is the maker of the rates between those points.

3. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. No, sir.

FORT MONROE, VA., *June 24, 1897.*

J. M. CULP, a witness on behalf of the defendant, having been duly sworn, testified as follows:

1. Q. State your name, age, residence, and occupation.

A. J. M. Culp; 48 years; Washington, D. C.; traffic manager Southern Railway.

166 2. Q. How long have you been connected with the traffic departments of railroads in the United States?

A. Upwards of 26 years.

3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, &c., via Charleston and Augusta,

to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain more than to Atlanta. The rates from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and Atlanta were, as shown by the report and opinion of the commission in 1892, as follows:

	Classes.											
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	54	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	44	43	69	87	86
Conyers	138	119	105	90	74	59	47	59	44½	43	70	85	87½
Stone Mountain	132	114	101	85	71	58	45	57	47	44	69	80	89½
Atlanta	114	98	86	78	60	49	36	48	40	39	58	68	78

State what in your opinion would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

A. The effect of a reduction in the rates from New York and Eastern cities to these points would not be to increase the volume of traffic over the road. It might distribute the traffic as between these several stations and as between these stations and Atlanta somewhat differently than it is at present distributed, but it would reduce the revenue of the line. No more dry goods or boots and shoes or manufactured articles or merchandise or other traffic would be consumed in the territory served by Atlanta and these points, and the line would suffer a reduction in revenue on the traffic already shipped to these local stations under the present adjustment of rates.

167 4. Q. State whether said rates from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are just and reasonable under the first section of the act; and state your reasons for any opinion you may express.

A. They are not unjustly nor unreasonably high. They are lower than rates by any other mode of transportation known. They are relative to rates to points similarly situated in the same section of country. They have not and do not have the effect of prohibiting the transportation of traffic by shippers or consignees at a profit to them. They are not higher than the rates to Augusta or Atlanta, which are controlled by strongly competitive forces, added to the rates from Augusta or Atlanta, pronounced by the railroad commission of the State of Georgia as just and reasonable.

5. Q. Name the various transportation lines that actually and actively competed in 1892 and now compete as well from Ohio River points as from other sections of the country for transportation to Atlanta of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F classes.

A. I will endeavor to enumerate the principal ones. From the Western section of the country, lines operating from the several Ohio and Mississippi crossings are—

The Cincinnati, New Orleans and Texas Pacific Railway.

The Baltimore & Ohio Southwestern.
The Louisville & Nashville.
The Southern Railway in Kentucky.
The Illinois Central Railroad (Louisville division).
The Ohio Valley Railroad.
The Nashville, Chattanooga, St. Louis Railway.
The Illinois Central Railroad (main line).
The Mobile & Ohio Railroad.
The Memphis & Charleston Railroad.
Kansas City, Memphis & Birmingham Railroad.
The Alabama & Vicksburg Railroad.
The New Orleans & Northeastern Railroad.

Of these the Louisville & Nashville, the Nashville, Chattanooga & St. Louis, the Illinois Central Railroads have routes from two or more of the river crossings referred to.

These lines named connect at crossings with lines operating beyond the Ohio River and the Mississippi River, reaching the entire Northern, Northwestern, and Western sections of the United States.

Second. From the Northeastern section of the country, including Eastern seaboard cities, there are, in addition to some other lines previously enumerated in the first paragraph—

168 The Pennsylvania Railroad, the Baltimore & Ohio Railroad, the Philadelphia & Reading Railroad, and other lines operating via all-rail routes through Hagerstown, Roanoke Junction, Strasburg Junction, Alexandria, Richmond, and Portsmouth, Virginia, in connection with lines operating south of those junctions, such as—

The Southern Railway.
The Norfolk and Western Railway.
The Seaboard Air Line.
The Atlantic Coast Line.
The Cape Fear and Yadkin Valley Railroad.

Besides these there is competition of thoroughly-equipped and well-managed steamship routes operating through South Atlantic ports, such as—

Merchants & Miners' Transportation Company, operating from Boston via the Chesapeake ports, and from Baltimore via Savannah, Georgia.

The Ocean Steamship Company from Boston, New York, and Philadelphia via Savannah, Georgia.

The New York & Texas Steamship Company (Mallory line), operating from New York via Brunswick, Georgia.

The Clyde Steamship Line, operating from New York and Boston via Charleston, South Carolina, and from Philadelphia via Chesapeake ports.

The Old Dominion Steamship Company, operating from New York via the Chesapeake ports.

The Baltimore Steam Packet Company (bay line) and the Baltimore, Chesapeake & Richmond Steamboat Company (York River line), operating from Baltimore, Md., via the Chesapeake ports. These various steamship lines have rail connections at said Chesapeake ports or South Atlantic ports, and for years competed and still actively compete for traffic from the entire Eastern seaboard to Atlanta.

6. Q. State whether or not the Southern Railway and its connection

actually and actively compete for the carriage of freight of said various classes to Atlanta; and if so, from what cities.

A. It does so compete from the entire Eastern and Northern and Western sections of the country; also from the cities of Virginia; in fact, all of the principal manufacturing and shipping points in the South to Atlanta, Georgia.

7. Q. Does such railroad or its connections have agents at said cities to solicit said freight for Atlanta?

A. At many of these points the Southern Railway has its own agents; at other points its connections have agents; at some points both
169 the Southern Railway and its connections have agents, all of whom actually daily solicit traffic for Atlanta; who advertise by having their soliciting offices established at these cities, and by the publication and issuing of traffic, by actual contact with the public and otherwise.

8. Q. State whether there is any such competition at Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain as exists at Atlanta.

A. There is not the same competition. There is competition as far as Augusta or Atlanta by the lines leading to those points, and the rates from the East to these points are controlled to a great extent by competition up to Augusta and Atlanta, but from Atlanta and Augusta to these points, except Madison and possibly Social Circle, there is no rail competition. Madison, Georgia, is reached directly by both the Georgia Railroad and what was formerly the Macon and Northern Railroad, now a part of the Central of Georgia Railway. Social Circle is reached by the Georgia Railroad and also by the Gainesville, Jefferson & Southern Railway, which was at the time of the filing of these complaints operated by the Georgia Railroad Company under lease—at present in the receiver's hands, but so far as I am advised managed by the same officers who manage the Georgia Railroad. At neither Madison nor Social Circle has competition at any time been of sufficient force or effect to cause a reduction in the rates from New York or Eastern cities to those points to the same rates as to Atlanta.

9. Q. Explain the basis of making rates from New York, Philadelphia, &c., to Atlanta. Are the rates fixed by the Georgia railroad commission from the Georgia seacoast to Atlanta taken into consideration?

A. The rates from the East to Atlanta are made by taking the rates of the steamship lines to South Atlantic ports, by adding thereto the rates in effect from Savannah and Brunswick to Atlanta, which rates are approved by the railroad commission of Georgia. These rates are not in all instances as high as the mileage rates of the Georgia commission, but they are approved by the Georgia commission and are made under the authority of the Georgia commission, which authorizes rates from ports within the State of Georgia to Atlanta to be made as low as from the ports, say, Charleston and Wilmington to Atlanta, although these rates may be lower than the mileage tariff of the Georgia commission. Under this authority the lines within the State of Georgia may charge from Savannah to Atlanta less than from Savannah to the points intermediate between Savannah and Atlanta.

10. Q. Can the number of tons carried one mile or the number
170 of tons carried of freight earning revenue or the average receipts per ton per mile, or the average cost of carrying one ton one mile either jointly or separately be used as the standard for railroad rate making?

A. It can not and is not.

11. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. It does. Not only does it affect the rate itself, but it likewise affects the circumstances and conditions under which the property may be carried. Competition will require a road to run trains at a higher rate of speed; it will require it frequently to carry cars loaded to a less weight per car; it will require it to take sometimes a part of a carload without waiting to fill up the car; it will require frequently the road to pay a claim, the payment of which the railroad company might successfully resist, in order to get business, and therefore it does very materially affect the circumstances and conditions under which the property is transported, in addition to the rate of freight which it affects.

Cross-examination by Mr. SHAVER:

1. Q. You stated in you direct examination that such reductions in rates from New York, over the line involved in this case, to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, which reductions would make rates to those points not less in excess of the rates to Atlanta, would not in your opinion increase the total traffic hauled by the road. Would it not increase the proportion of that traffic hauled to these intermediate points?

A. It might increase it to a small extent, but not materially.

2. Q. Do not Atlanta merchants sell goods at Stone Mountain, Covington, Conyers, Social Circle, Madison, and Greensboro, and in the territory adjacent to those points, in competition with local merchants at those points under the existing system of rates?

A. Yes, sir; and the merchants themselves.

3. Q. Would not these local merchants be enabled to compete more successfully with Atlanta merchants for this business under rates not higher than the Atlanta rates, and would not this tend at least to increase the volume of business at those points?

A. I do not think it would materially do that, and I do not believe it would materially increase the volume of business done to those points.

A reduction in the rates from the East to these points as stated
171 would not have any material effect, if any, on the price at which merchandise shipped from the East to these points is sold, and I repeat I do not think it would have any material effect to increase the volume of business shipped from the East to these points.

4. Do not lower rates tend toward lower prices of merchandise and produce?

A. Upon an article of freight in which the rate of freight is an important factor as to the price a material reduction in the rate of freight does tend to lessen the price; but in the class of business shipped from the East, especially to these stations, I do not believe that the reduction in

the rate of freight as referred to would reduce the price at all—certainly not to any material extent.

5. Q. The rates from New York on first-class goods over the line involved in this case to Madison is $1.44 per hundred pounds, whereas the rates to Atlanta, the longer distance points, on a haul through Madison is $1.14, making a difference of thirty cents in favor of Atlanta. Is not a difference of thirty cents in rates material?

A. A reduction in the rate of freight to the railroad would be a material reduction, but thirty cents per hundred reduction in the class of freight shipped from the East to these stations referred to would not be important in reducing the prices. Thirty cents per hundred pounds would not cause hats to be sold any cheaper or dry goods to be sold any cheaper, and I do not believe it would cause sugar and coffee to be sold materially cheaper to the consumer. If the rates were reduced to-morrow from New York to these points, I do not believe that it would follow as a result of the reduction in the rate by any reduction in the price of the articles.

6. Q. Lower rates at a locality tend to induce the investment of capital there, and also to induce population to come to such locality, do they not?

A. If a place has very materially lower rates than all the country surrounding it, other things being equal, the tendency would be to draw commerce there, manufacturers there, capital there; but that would not be the effect of a reduction in the rates to these stations the same as the Atlanta rates. It would make very little increase of population as the result of the reduction; it would not draw any capital there for investment. When articles are manufactured at a local station coming in competition with the same manufactured articles made at competitive points, both seeking the same destination, the rule is to make the rate of
172 freight from the local points or noncompetitive points not higher than from the next competitive point further away; so that the manufacturers are taken care of by that rule, and would not be affected by this suggested reduction.

7. Q. Does not Atlanta enjoy lower rates than the surrounding localities in almost every direction?

A. Atlanta enjoys lower rates from the West than do the localities immediately surrounding Atlanta enjoy from the West. Atlanta has lower rates from the East than some localities surrounding Atlanta or in the vicinity of Atlanta, but she does not have lower rates from the East than some surrounding localities.

8. Q. Has not this advantage in rates over the surrounding localities benefited Atlanta and increased her volume of business?

A. She has lower rates, and that fact has contributed to the advantage of Atlanta; but those lower rates are the result of competitive forces which the railroads have not been able to prevent or overcome. They exist, and the railroads have been compelled to adapt their rates to the conditions. These conditions do not exist at these local points on the Georgia Railroad, and the railroad companies and the carriers have not placed at these points an artificial arbitrary competition which does not exist, and which if placed there would materially decrease their revenue without any increase in the volume of traffic.

9. Q. It is a fact, however, no matter what caused these lower rates to Atlanta, that Atlanta has been benefited by them, is it not?

A. Yes, sir; to some extent; but that advantage of lower rates will always exist so long as there are different rates of freight from a given point of shipment to various destinations, and will exist unless there should be a uniform rate made to all points in the country, which is impracticable.

10. Q. You named in your direct examination a number of lines to Atlanta and also to Augusta, I believe. May not all these lines be formed to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain by a combination with the Georgia Railroad, on which those points are located?

A. Yes, sir; and all these lines have, if you compete up to Atlanta or Augusta, as the case may be, for traffic destined for these local stations.

11. Q. You stated that there was a railroad from Social Circle to Gainesville. Does not that road connect at Gainesville with the Atlanta & Charlotte division of the Richmond & Danville line?

A. With the Atlanta & Charlotte division of the Southern Railway now—formerly the Richmond & Danville.

173 12. Q. Could not a large number of lines be formed from the East or other directions by combinations with this line from Social Circle to Gainesville?

A. With the consent of this Gainesville, Jefferson and Southern Railway, controlled by the Georgia Railroad, and only with the consent of that line. But even if they were, the line could not at equal rates expect to do any business of any consequence in competition with the line via the Georgia Railroad. The business would have to be transferred from car to car at Gainesville, across the city.

13. Q. Have all the lines you mentioned in your direct examination actual, physical connection between the different members of the lines?

A. So far as I recall, yes; of course business from the steamers must be transferred into the cars of the railroad at the ports, but as between the rail lines themselves, so far as I recall, there is physical connection.

14. Q. Is it necessary, in your opinion, in order to form a through line by the combination of railroads that there should be actual physical connection between the different roads, members of the line?

A. No; the property may be transferred by cars or drays, but that impairs the efficiency of the route to have it transferred in that way.

15. Q. At Madison the Georgia Railroad also connects with the branch of the Richmond & Danville Railroad, does it not?

A. No; it connects with what is now a part of the Central of Georgia Railroad.

16. Q. Can not a number of lines be formed by combinations with that line from Madison as the terminal carrier?

A. Yes, sir; with the consent of the Central of Georgia Railroad.

17. Q. You stated in your direct examination that the rates involved in this case from New York to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain were just and reasonable. Are these lower rates of freight for the longer hauls from New York through those points to Atlanta also just and reasonable in and of themselves?

A. They pay a profit over and above the cost of transportation. They

are as high as competition will permit them to be made, and they may, therefore, gauged by these facts, be pronounced just and reasonable.

174 18. Q. Is a rate reasonable in and of itself which does not yield the carrier a proper remuneration in excess of the cost of transportation?

A. In my opinion a road is always justified in taking the additional traffic, or traffic which it otherwise could not get, to the extent of making a rate as low as the actual movement, expense incurred in the movement of that traffic.

19. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost and the expense of the service of carriage?

A. It is very difficult to obtain the actual cost of carriage. Railroads arrive at that result just as nearly as they can and then they endeavor in making rates to fix that average cost or that estimated cost of carriage as a minimum below which they will not go. Now there may be average cost or estimated cost, including fixed charges: there is the cost which leaves out the fixed charges and take' all other kinds of expense; then there is a cost which pertains simply to the movement of a particular business, a cost which is incurred only because that particular business is moved.

20. Q. Is not the expense or the cost of the service of carriage an element to be considered in determining the reasonableness or the unreasonableness of a given rate or set of rates?

A. My experience is that the estimated cost is only used as a minimum below which the carriers will not go.

21. Q. Does not the cost or expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. Other things being equal, the longer the haul, the greater the cost.

22. Q. Other things being equal, is not the consumption of time greater, the greater the length of the haul?

A. Other things being equal, yes; a great deal, however, is covered by that term "other things being equal."

23. Q. Is not the consumption of fuel greater, the greater the length of the haul, other things being equal?

A. Other things being equal, yes.

24. Q. Is not the wear and tear on locomotives, cars, tracks, road, etc., greater, the greater the length of the haul, other things being equal?

A. Yes, sir.

25. Q. Is not the cost of keeping the road in repair or in good condition greater, the greater the length of the haul, other things being equal?

A. Yes, sir.

175 26. Q. Other things being equal, does it not require more locomotives and cars and more crews for running trains on a long road than on a short road?

A. Other things being equal, yes, sir.

27. Q. Other things being equal, does not distance add to the cost of building a road, and are not therefore the fixed charges such as interest on the capital invested, greater the greater the length of the road?

A. Other things being equal, yes, sir.

28. Q. Other things being equal, is not the service more valuable to the shipper the greater the length of the haul? In other words, will not a haul of 100 miles give a shipper more extended markets for his goods or produce than a haul of 50 miles?

A. Not necessarily. The haul to the shipper or consignee where he is at a point 100 miles distant from the point of shipment may not be worth as much as the haul to the consignees remote only 50 miles from the same point of shipment.

29. Q. How are the rates from New York to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain made up? Are they combinations of through and local rates?

A. They are.

30. Q. Through rates to what point?

A. Through rates to Augusta generally. It is possible that some of the rates may be made on combination of rates to Atlanta and the local therefrom, but I am not positive about that without the records before me.

31. Q. Is not traffic transported from New York over the line in question in this case, which is via the Clyde Steamship Company to Charleston, and thence over the South Carolina Railway to Augusta, and thence over the Georgia Railway to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, under through bills of lading, naming an aggregate through rate issued by the initial carriers at New York?

A. I understand that shipments are consigned through and that through rates are guaranteed.

32. Q. Is not the expense to the carrier of strictly local hauls in less than car loads greater per ton per mile than on long through hauls?

A. Other things being equal, yes, sir.

33. Q. Are not local rates made much higher per mile than the proportions of through rates for the same distance?

A. Generally, yes, sir; not always though.

34. Q. Has the railroad commission of Georgia any authority or jurisdiction in respect to through rates or any proportion of through rates on interstate commerce?

A. I do not understand that it has any authority over through
176 rates or proportions of through rates in interstate commerce. But it has attempted to bring about a regulation of through rates on interstate commerce. It has complained to the railroads. And it has brought complaints before the Interstate Commerce Commission as to the rates; and this case is the result of one of those complaints.

35. Q. The act to regulate commerce authorized them to make complaints before the Commission?

A. I did not recall whether it does or not, but the law of Georgia authorizes them to do it.

36. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Ohio and Potomac rivers?

A. More than 26 years.

37. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter being included in the longer, ever, to your personal knowledge, been made in that territory before or since the enactment of the act to regulate commerce in 1887,

except in cases of competition in transportation to the longer distance point?

A. Not that I recall. No line willingly and of its own volition arbitrarily reduces the rates to a farther point to a less figure than an intermediate point. It is the result of competition where it does make the rate less for the longer than for the shorter distance in the same direction over the same line.

38. Q. You stated in substance in your direct examination that the average receipts per ton per mile and estimated cost of carrying one ton one mile on traffic in general did not furnish a standard by which you could determine what was a reasonable rate in a given case, I believe?

A. Yes, sir.

39. Q. Is not such data useful to some extent in determining whether an existing rate is or is not excessive?

A. It is useful in determining whether all the rates are excessive. In other words, the average receipts of a road per ton per mile might be as much that, taken in connection with other things, it might be held that rates were excessive. But much the largest proportion of the tonnage of all roads is carried at rates which are fixed by competition in some form or other, either of carriers or of markets, or of one product with another product, which will serve the same purpose.

40. Q. How long have carriers been making out this data as to average receipts per ton per mile and estimated cost of carrying one ton one mile?

A. A great many of them do not do it at all. The Southern
177 Railway to-day does not attempt to figure the cost per ton per mile of carrying freight. The records of the West Tennessee, Virginia & Georgia Railroad show that the estimated average cost for transporting all kinds of freight on all portions of the East Tennessee, Virginia & Georgia Railroad from April 1st, 1891, to June 24th, 1892, inclusive, was seventy-one one hundredths (.71) of a cent per ton per mile.

41. Q. Has not this data been kept by other roads for a great many years?

A. I have no information that any road has invariably kept the cost per ton per mile for a great many years. Some roads have done it for some years, I know.

42. Q. They have done it for their own use, have they not?

A. I assume so; it is published in their annual reports. I will say that my opinion is that it is very difficult, if not impracticable, to arrive at the actual cost per ton per mile of moving freight traffic over any road.

43. Q. This data is based upon actual calculation, is it not?

A. The average receipts per ton per mile are very easily arrived at. The average cost per ton per mile, as I have testified, is estimated as to the East Tennessee, Virginia & Georgia Railroad.

44. Q. The average receipts per ton per mile are the result of accurate calculation, is it not?

A. Yes, sir.

45. Q. Was not Atlanta recognized as a competitive point and as being entitled to competitive rates by the Southern Railway and Steamship Association?

A. It was recognized as a competitive point. It was only recognized as entitled to competitive or lower rates than to intermediate points, as competition might force those rates.

46. Q. Are not the rates in question in this case to Atlanta the same as they were during the existence of the Southern Railway and Steamship Association?

A. On these classes, yes.

47. Q. Were not the rates in question in this case to Atlanta promulgated by the Southern Railway and Steamship Association by the consent of the carriers, members of that association?

A. Published by the consent and direction of the members of the association.

48. Q. Are not the rates to Atlanta from New York the same by all the lines?

178 A. Published rates are the same by all, except by the Mallory Line, which are less.

49. Q. Are not the rates by all the rail lines from New York and other Northeastern points to Atlanta the same?

A. They are.

50. Q. Are the rates involved in this case by the ocean and rail lines the same by all those lines?

A. By all except the Mallory Line, which are less.

Redirect examination by Mr. BAXTER:

1. Q. Something has been said in the cross-examination in regard to the value of the service. May there not be a difference between the value of the service to the shipper and the value of the service to the carrier?

A. Precisely. The value of the service to the shipper or consignee for the transportation of 100 lbs. of stuff may be only 25 cents per hundred pounds. The value of that service may be to the carrier greater from at least two reasons: One, that it will cost it more to perform the service than the 25 cents. Another reason, that it may be employing all of its entire power and rolling stock in the transportation of property which yields it for an equivalent service much more net money than 25 cents would for the first service referred to.

2. Q. If the shipper living at Memphis where cotton is worth in the market, say 10 cents, ship that cotton to Holly Springs where it is worth in the market only 9 cents a pound, would not the value of the service to him be less than nothing?

A. It would; one cent per pound less than nothing.

3. Q. If, on the other hand, he shipped it from Holly Springs where it was worth 9 cents per pound to Memphis, where it was worth 10 cents per pound, the value of the service to him would be one cent, would it not?

A. Yes, sir; one cent per pound, and in either case the value of the service to the railroad company might be the same.

4. Q. Please file as Exhibit No. ½ to your deposition copies of the articles of agreement of the Southeastern Freight Association.

A. Yes, sir.

5. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause,

or either of them, or may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. No, sir.

179 NASHVILLE, TENN., *July 13, 1897.*

C. B. COMPTON, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. C. B. Compton; age, 43; residence, Louisville, Ky.; general freight agent of the Louisville & Nashville Railroad.

2. Q. How long have you been engaged in the railroad freight transportation business, and in what capacities?

A. I have been continuously in the employ of the Louisville & Nashville Railroad since 1871 in various capacities, amongst which are local freight agent, contracting freight agent, general agent, and general freight agent.

3. Q. In this case the Interstate Commerce Commission ordered the defendant to desist from charging for the transportation of like kind of property from New York, Philadelphia, &c., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain more than to Atlanta. The rates from New York, Philadelphia, &c., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and Atlanta were, as shown by the report and opinion of the Commission in 1892, as follows:

	Classes.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	64	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	44	43	69	87	86
Stone Mountain	132	114	101	85	71	57	45	57	47	44	69	80	89½
Conyers	138	119	105	90	74	59	47	59	44½	43	70	85	87½
Atlanta	114	98	86	78	60	49	36	48	40	39	58	68	78

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social
180 Circle, Covington, Conyers, and Stone Mountain, so as to make up for any loss of revenue that would otherwise result. Give your reason for any opinion you may express.

A. In my opinion the reduction in rates to the points named would not increase the volume of traffic, while decreasing the revenue to the extent that the reductions as made on the volume of traffic moving under each of the several classes. There are but two ways of increasing the movement of traffic to a particular point: First, by an increase of the consumption at that point, and, second, by making such point a jobbing and distributing center. As to increasing the consumption at Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, it stands to reason such result would not follow from a reduction in the rates. If the rates to those points were made not higher than to Atlanta,

not having the benefit of the diverging lines as in the case of Atlanta and Augusta, those several points could not become distributing points, as there would be no surrounding territory to which they could distribute in competition with Atlanta and Augusta.

4. Q. State whether said rates from New York, Philadelphia, &c., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Convers, Stone Mountain are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. In my opinion said rates are just and reasonable. They are just and reasonable because they are the lowest combination of rates on either Augusta or Atlanta, and under them business from New York, Philadelphia, &c., moves freely in competition with other markets; and for the further reason that they are as low as can be made by any other method of transportation.

5. Q. State what lines actually and actively competed in 1892 and now compete from New York, Philadelphia, &c., in transportation to Atlanta, Ga., on the freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. You asked what lines actually and actively competed in 1892 and now compete from New York, Philadelphia, &c., in transportation to Atlanta, Ga., of classified freights. It is probable that if all the combinations were named the number would reach in the hundreds. It may be sufficient to make the following general statement:

From Boston—Direct steamer lines to Savannah, controlled by the Ocean Steamship Co. Lines of steamers and rail lines to New York, connecting with direct steamer lines from New York to Norfolk, Richmond, West Point, Charleston, Savannah, and Brunswick; and also the Merchants & Miners' Transportation Co. from Boston to Norfolk
181 and West Point, Va., and to Baltimore; at Baltimore the Merchants & Miners' Transportation Co. connects with its lines of steamers to Savannah.

From New York: The Ocean Steamship Co. to Savannah; the Clyde Line to Charleston; the Mallory Line to Brunswick; the Old Dominion Steamship Co. to Norfolk; the Old Dominion Steamship Co. to Portsmouth; the Old Dominion Steamship Co. to West Point and Richmond. The Pennsylvania Railroad via Harrisburg and Hagerstown. The Pennsylvania Railroad via Alexandria. The New Jersey Central Railroad in connection with the Reading Railroad via Hagerstown. The New Jersey Central Railroad in connection with the Baltimore & Ohio Railroad via Baltimore.

From Philadelphia: The Ocean Steamship Company to Savannah; the Clyde Line to Charleston. The Pennsylvania Railroad via Norfolk. The Pennsylvania Railroad via Alexandria. The Pennsylvania Railroad via Hagerstown. The Baltimore & Ohio Railroad via Baltimore, and the Baltimore & Ohio Railroad via Shenandoah Junction.

From Baltimore: The Bay Line of steamers to West Point; the Merchants & Miners Transportation Company to Savannah. The Western Maryland Railroad via Hagerstown. The Baltimore & Ohio Railroad via Shenandoah Junction. The Baltimore & Potomac Railroad via Alexandria.

In addition to the regular lines, some of which have been named above,

actively competing from Eastern cities, there should be considered the sailing vessels from Boston, New York, Philadelphia, and Baltimore to South Atlantic ports. I have named above the different initial lines competing in connection with the various rail connections to Atlanta.

6. Q. State what lines actually and actively competed in 1892 and now compete from Ohio River points and sections of the country other than New York, Philadelphia, etc., in transportation to Atlanta of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. The following lines competed in 1892 and now compete from various Ohio River points to Atlanta:

From Cincinnati—

The Cincinnati, New Orleans & Texas Pacific to Chattanooga, thence via the Southern Railway.

Cincinnati, New Orleans & Texas Pacific to Chattanooga, thence via the Western & Atlantic Railroad.

Cincinnati, New Orleans & Texas Pacific to Chattanooga, thence via the Alabama Great Southern to Birmingham, thence via the Southern Railway to Atlanta.

182 Cincinnati, New Orleans & Texas Pacific to Chattanooga, thence via the Chattanooga, Rome & Columbus to Kramer, Ga., thence via Southern Railway.

Louisville & Nashville Railroad to Nashville, thence via the Nashville, Chattanooga & St. Louis to Chattanooga, thence via the Western & Atlantic Railroad.

Louisville & Nashville Railroad to Nashville, Nashville, Chattanooga & St. Louis to Chattanooga, thence via Southern Railway.

Louisville & Nashville Railroad to Nashville, Nashville, Chattanooga & St. Louis to Chattanooga, thence via Southern Railway.

Louisville & Nashville Railroad to Nashville, Nashville, Chattanooga & St. Louis to Chattanooga, thence Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Louisville & Nashville to Jellico, thence via Southern Railway.

Baltimore & Ohio Southwestern to Louisville, Illinois Central to Memphis, Memphis and Charleston to Chattanooga, thence via Southern Railway.

Baltimore & Ohio Southwestern to Louisville, Illinois Central to Memphis, Memphis and Charleston to Chattanooga, thence via Western & Atlantic Railroad.

Baltimore & Ohio Southwestern to Louisville, Illinois Central to Memphis, Memphis & Charleston to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Baltimore & Ohio Southwestern to Louisville, Illinois Central to Memphis, Kansas City, Memphis & Birmingham to Birmingham, Southern Railway to Atlanta.

Baltimore & Ohio Southwestern to Louisville, Illinois Central to Memphis, Kansas City, Memphis & Birmingham to Birmingham, thence via Central Railroad of Georgia.

From Louisville—

Louisville & Nashville to Nashville, Nashville, Chattanooga & St. Louis to Chattanooga, thence via Western & Atlantic Railroad.

Louisville & Nashville Railroad to Nashville, Nashville, Chattanooga & St. Louis to Chattanooga, thence Southern Railway.

Louisville & Nashville to Nashville, Nashville, Chattanooga & St. Louis to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Southern Railway to Burgen, Cincinnati, New Orleans & Texas Pacific to Chattanooga, thence via Southern Railway.

183 Southern Railway to Burgen, Cincinnati, New Orleans & Texas Pacific to Chattanooga, thence via Western & Atlantic Railroad.

Southern Railway to Burgen, Cincinnati, New Orleans & Texas Pacific to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Illinois Central to Memphis, Memphis & Charleston to Chattanooga, thence via Southern Railway.

Illinois Central to Memphis, Memphis & Charleston to Chattanooga, thence via Western & Atlantic Railroad.

Illinois Central to Memphis, Memphis & Charleston to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Illinois Central to Memphis, Kansas City, Memphis & Birmingham to Birmingham, thence via Southern Railway.

Illinois Central to Memphis, Kansas City, Memphis & Birmingham to Birmingham, thence via Central Railroad of Georgia.

From Evansville and Henderson:

Louisville & Nashville Railroad to Nashville, Nashville, Chattanooga & St. Louis to Chattanooga, thence via Western & Atlantic Railroad.

Louisville & Nashville to Nashville, Nashville, Chattanooga & St. Louis to Chattanooga, thence via Southern Railway.

Louisville & Nashville to Nashville, Nashville, Chattanooga and St. Louis to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Ohio Valley to Princeton, Illinois Central to Memphis, Memphis & Charleston to Chattanooga, thence via Southern Railway.

Ohio Valley to Princeton, Illinois Central to Memphis, Memphis & Charleston to Chattanooga, thence via Western and Atlantic.

Ohio Valley to Princeton, Illinois Central to Memphis, Memphis & Charleston to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Ohio Valley to Princeton, Illinois Central to Memphis, Kansas City, Memphis & Birmingham to Birmingham, thence via Southern Railway.

Ohio Valley to Princeton, Illinois Central to Memphis, Kansas City, Memphis & Birmingham to Birmingham, thence via Central Railroad of Georgia.

From Paducah:

Nashville, Chattanooga & St. Louis to Chattanooga, thence via Western & Atlantic Railroad.

184 Nashville, Chattanooga & St. Louis to Chattanooga, thence via Southern Railway.

Nashville, Chattanooga & St. Louis to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Illinois Central to Memphis, Memphis & Charleston to Chattanooga, thence via Southern Railway.

Illinois Central to Memphis, Memphis & Charleston to Chattanooga, thence via Western & Atlantic Railroad.

Illinois Central to Memphis, Memphis & Charleston to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Illinois Central to Memphis, Kansas City, Memphis & Birmingham to Birmingham, thence via Southern Railway.

Illinois Central to Memphis, Kansas City, Memphis & Birmingham to Birmingham, thence via Central of Georgia.

From Cairo:

Nashville, Chattanooga & St. Louis to Chattanooga, thence via Western & Atlantic Railroad.

Nashville, Chattanooga & St. Louis to Chattanooga, thence via Southern Railway.

Nashville, Chattanooga & St. Louis to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Illinois Central to Grand Junction, Memphis & Charleston to Chattanooga, thence via Southern Railway.

Illinois Central to Grand Junction, Memphis & Charleston to Chattanooga, thence via Western & Atlantic Railroad.

Illinois Central to Grand Junction, Memphis & Charleston to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway.

Illinois Central to Holly Springs, Kansas City, Memphis & Birmingham to Birmingam, thence via Southern Railway.

Illinois Central to Holly Springs, Kansas City, Memphis & Birmingham to Birmingham, thence via Central Railroad of Georgia.

Illinois Central to Winona, thence via Southern Railway.

Mobile & Ohio Railroad to Corinth, Memphis & Charleston to Chattanooga, thence via Southern Railway.

Mobile & Ohio Railroad to Corinth, Memphis & Charleston to Chattanooga, thence Western & Atlantic.

Mobile & Ohio Railroad to Corinth, Memphis & Charleston to Chattanooga, Chattanooga, Rome & Columbus to Kramer, thence via Southern Railway .

185 Mobile & Ohio railroad to Tupelo, Kansas City, Memphis & Birmingham to Birmingham, thence via Southern Railway.

Mobile & Ohio Railroad to Tupelo, Kansas City, Memphis & Birmingham to Birmingham, thence via Central of Georgia Railway.

Mobile & Ohio Railroad to West Point, thence via Southern Railway.

Mobile & Ohio Railroad to Lauderdale, thence via Southern Railway.

Mobile & Ohio Railroad to Lauderdale, thence Southern Railway to Selma, thence via Western Railway of Alabama to West Point, thence via Atlanta & West Point Railroad.

The lines actually and actively competing in the transportation of classified freight to Atlanta from sections of the country other than Ohio River points and other than New York, Philadelphia, etc., are too numerous to mention, comprising all roads north of the Ohio and west of the Mississippi rivers, in connection with the various routes already named from the Ohio River crossings.

7. Q. State whether or not the Louisville and Nashville Railroad and its connections actually and actively compete for the carriage of freight of said various classes to Atlanta; and if so, from what cities?

A. The Louisville and Nashville Railroad and its connections actually

and actively compete for the carriage of classified freight to Atlanta, Georgia, from Ohio and Mississippi river cities; also from all points in the States north of the Ohio and west of the Mississippi River; also from the points south of the Ohio and east of the Mississippi rivers which are located on and west of the Louisville and Nashville Railroad.

8. Q. Does your railroad or its connections have agents at said cities to solicit said freight for said cities to Atlanta?

A. The Louisville and Nashville Railroad and its connections have agents at the various cities and territories described for the purpose of soliciting freight destined to Atlanta.

9. Q. Does your railroad or its connections advertise at said cities for the transportation of said freight to Atlanta?

A. The Louisville and Nashville Railroad and its connections advertise, through the soliciting agents mentioned and by means of tariffs and other printed matter, in the territory described for transportation of freight to Atlanta.

10. Q. State whether the rates of freight of the various classes from New York, Philadelphia, &c., to Atlanta, are controlled to any, and if so, to what, extent by competition.

186 A. The rates of freight from New York, Philadelphia, &c., to Atlanta, Georgia, are made by coastwise steamers and sailing vessels to South Atlantic coast points, and then by rail to Atlanta. The through rates so fixed are operated by the numerous routes which actively compete with each other for the traffic. It may be said, therefore, that the rates on the classified freight from New York, Philadelphia, &c., to Atlanta are controlled entirely by competition.

11. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. Competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted. To illustrate: The short line from Chattanooga, Tenn., to Meridian, Mississippi, is via the Alabama Great Southern Railroad, the distance being 296 miles. The line of the Memphis and Charleston and the Mobile and Ohio road being 411 miles through Corinth, it is a self-evident proposition that if the Memphis and Charleston and the Mobile and Ohio road wish to compete in the handling of the traffic from Chattanooga to Meridian they can not do so at higher rates than those made by the Alabama Great Southern over the short line. The effect of this, so far as the Memphis and Charleston and its connections may be concerned, is that by reason of meeting from Chattanooga to Meridian the rates made by the Alabama Great Southern Railroad it is necessary to make on the Meridian combination to some points on the Mobile and Ohio roads near by Meridian less rates than would otherwise be applied.

Again, the rates from St. Louis to Memphis, Tennessee, all rail are made in competition with steamboat lines on the Mississippi River, the through water transportation fixing the maximum rates that can be charged by the all-rail lines. That is to say, that unless the all-rail lines meet the all-water rates they would not be able to enjoy any portion of the traffic moving from St. Louis to Memphis. The effect of this is to

make the rates to points near by Memphis on the rail lines on the Memphis combination less than they would otherwise be, thus giving local points in the vicinity of Memphis, though without direct water competition themselves, the benefit of the water competitive rates for much the greater portion of the haul.

12. Q. Were the Clyde Steamship Company and what was known as the South Carolina Railroad Company, and the Georgia Railroad and Banking Company, and the Louisville and Nashville Railroad
187 Company, and the Central Railroad and Banking Company, of Georgia, under any common control or management in 1892, or have they been since that time?

A. No, sir.

13. Q. State whether the number of tons carried one mile or the number of tons carried of freight-earning revenue or the average receipts per ton per mile, or the estimated cost of carry' one ton one mile, can either jointly or separately be used as a standard in railroad-rate making?

A. The number of tons carried one mile or the number of tons carried of freight-earning revenue or the average receipts per ton per mile or the estimated cost of carrying one ton one mile cannot be used, either singly or together, as the standard in railroad-rate making.

For example, when called upon to make a line of rates from a given point to another it is necessary to establish rates on all classes that would or could move. Having no possible means of determining the relative tonnage that might move in each class or averaging the total tonnage that might move in all classes, or of determining what proportion such tonnage under all the classes would be of the entire tonnage handled by the roads during any given period of time, the rate per ton per mile could not in any way be considered.

14. Q. Explain the basis of making rates from New York, Philadelphia, &c., to Atlanta. Are the rates which are fixed by the Georgia commission from the Georgia seacoast to Atlanta taken into consideration?

A. The rates from New York, &c., to Atlanta, Georgia, are made by the coastwise steamers and sailing vessels to South Atlantic coast points and thence by rail to Atlanta. It will be seen by this that the rates which are fixed by the Georgia railroad commission from the Georgia seacoast to Atlanta, being one of the factors in the combination, are and have of necessity to be taken into consideration in fixing the total rates.

15. Q. State whether the rates which are made and have been made by the trunk lines from Cincinnati to Baltimore and other Eastern cities and thence by steamships or sailing vessels, thence by the Georgia Railroad to Atlanta, control the rates which can be charged by the direct rail lines operating from Cincinnati to Atlanta.

A. It is susceptible of proof that the trunk lines and other western connections pro rate on agreed per cents the rates from Central Freight Association territory via Baltimore and other Eastern cities and thence by water to Savannah, Georgia. In other words, the trunk lines and
188 their connections on the particular business referred to, do not receive their full rates from the point of origin to Baltimore or other Eastern cities. This being true, it can reasonably be inferred that the rates from Cincinnati to Baltimore and other Eastern seaboard cities

proper would necessarily be the lowest proportions of the trunk line and their western connections would be willing to accept on business via Baltimore and other cities and thence via water to Savannah or other South Atlantic coast points.

The rates from Cincinnati to Savannah via all rail are pro rated through Atlanta, the line beyond Atlanta receiving 38.3 per cent. As they accept from Atlanta 38.3 per cent on business from Cincinnati to Savannah via Atlanta, it is perfectly reasonable to believe they would also accept the same earnings from Savannah to Atlanta on business from Cincinnati via Baltimore and water. From this presentation of the case it will be seen that, whether the competition from Cincinnati via Baltimore and other Eastern seabo'rd cities, thence by water, thence by the Georgia Railroad to Atlanta be active or dormant, the rates that have been or can be made by that route exercises a control over the rates which can be charged by the direct lines operating from Cincinnati to Atlanta.

16. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. No, sir.

Cross-examination by Mr. SHAVER:

1. Q. I notice that you have read from a manuscript before you your answers to the direct interrogatories. Did you, yourself, prepare those answers?

A. I did.

2. Q. How long ago did you prepare them?

A. I can not give the exact date.

3. Q. About how long ago?

A. The exact number of days I can not give—but about three weeks ago.

4. Q. You were furnished with the interrogatories for you to prepare the answers, were you not?

A. Mr. Baxter advised me that I would be expected to testify in this case.

5. Q. I asked you if you were furnished with the interrogatories before you prepared the answers?

189 A. Yes, sir; Mr. Baxter sent me the interrogatories which he desired me to answer.

6. Q. In your direct examination you named a number of lines that could be formed from New York and other Eastern cities to Atlanta. Can not all those lines be formed to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain by combination with the Georgia Railroad as the terminal carriers?

A. The lines which I enumerated in my answer to the previous direct interrogatory compete for business from New York, Philadelphia, Baltimore to Atlanta, and I am not advised as to whether or not all the lines named compete to Atlanta for business to Greensboro, Madison, Social Circle, Covington, and Conyers; but if they do, then the same combination can be made in connection with the Georgia Railroad to the points named.

7. Q. You stated that the combinations that could be formed would be in excess of the hundreds. The number is almost unlimited, if you go far enough around from the direct route, is it not?

A. Yes, sir.

8. Q. Does not the direct route or the short lines between two points fix the rate for all lines?

A. The short lines between two given rail points fixes the rate between such points, but in the case of fixing the rate from New York, Philadelphia, and Baltimore to Atlanta, I do not understand that the short rail route fixes the route in this case. The rate is fixed by water and rails.

9. Q. The rates involved in this case from New York and other Northeastern cities to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are advertised through rates, are they not?

A. It is my information that the lines from New York, Philadelphia, and Baltimore show in their tariffs rates to the points named.

10. Q. On how many railroads is Madison located?

A. Madison, Georgia, is located on the Georgia Railroad, between Atlanta and Augusta, and is reached by the Central Railroad of Georgia and the Georgia Railroad.

11. Q. How many roads reach Social Circle directly?

A. Social Circle is located on the Georgia Railroad. It is not reached by any other lines.

12. Q. You stated in your direct examination that a reduction in the rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, so as to make the rates from New York and other
190 Eastern cities to those points not higher than the Atlanta rates, would not increase the business to those points, and one ground for that opinion you gave was that there was no territory surrounding those points in which they could distribute goods in competition with Atlanta, as those points had diverging lines. Has Atlanta any diverging lines to Greensboro, Madison, Social Circle, Conyers, Covington, and Stone Mountain except the Georgia Railroad?

A. Atlanta has no diverging lines to Greensboro, Social Circle, Covington, Conyers, and Stone Mountain. They are situated on the Georgia Railroad, between Atlanta and Augusta.

13. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at that point?

A. Not necessarily so.

14. As a general rule, and in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards the encouragement of the investment of capital at that point and the increase of its population?

A. Not necessarily.

15. Q. Is not the natural effect of unfavorable rates to or a discrimination in rates against a given point to injure the mercantile and other business interests of such point, and to retard or prevent its growth and prosperity?

A. My opinion is if an unjust and discriminating set of rates were established to a given point it would hurt the business at that point.

16. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a set of rates which are preferential to one of these localities and discriminatory against the other benefit the one and injure the other?

A. If two cities are situated alike, and all things being equal, and one city is given a better adjustment of rates than the other, in my opinion it would hurt the business of the other city.

17. Q. The rates from New York, Philadelphia, etc., to Madison, Social Circle on first class goods is $1.44, or was in 1892, $1.44 per hundred pounds, while the rates for the longer haul through those points to Atlanta is $1.14, making a difference of thirty cents a hundred pounds in favor of Atlanta. Do you consider that a material difference in rates?

A. The rates as you state them are correct. If the rates from New York to Madison and Social Circle were reduced to $1.14 it would be thirty cents per hundred pounds, or equal to 20 per cent, and I would consider that a material reduction.

191 18. Q. Does not Atlanta enjoy lower rates than the shorter distance surrounding points in all directions or on all roads coming into Atlanta?

A. Atlanta enjoys lower rates than the shorter distance local points on roads leading to Atlanta from Baltimore, New York, and Philadelphia.

19. Q. Does it also enjoy lower rates than intermediate points leading from Cincinnati to Atlanta?

A. No, sir; it enjoys lower rates than the local stations nearby Atlanta, say, for instance, on the Western and Atlantic railroads, going into Atlanta, but it does not enjoy a lower rate from Cincinnati than does Chattanooga enjoy from Cincinnati.

20. Q. Is it not a well-known fact that Atlanta has been built up by the railroads?

A. It is my belief that Atlanta has been benefited largely by having the benefit of so many competing railroads.

21. Q. You stated in your direct examination that the rates involved in this case from New York and other Eastern cities to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain were reasonable in and of themselves, and mentioned as ground, among others, for that opinion that the traffic moves freely under those rates, and that they are lower than can be obtained by other methods of transportation. What other methods of transportation did you refer to or have in mind?

A. I had in mind other than railroads from Northeastern cities, as you term them, and also the rail and water lines from the same points.

22. Q. Did you have in mind wagon or team transportation?

A. I did.

23. Q. You also mentioned the fact, or stated it to be the fact, that in establishing the proportion of the rates by rail from the seacoast that the rates fixed by the Georgia railroad commission were taken into consideration. Does the Georgia railroad commission fix through rates on interstate commerce or any proportion of such through rates, or only rates on local traffic in the State of Georgia?

A. I stated that the rates of freight from New York, Philadelphia, etc., to Atlanta were made by coastwise steamers and sailing vessels to South Atlantic coast points and thence by rail to Atlanta, and that the

through rates so fixed were operated by numerous routes which actively compete with each other for the traffic. I do not understand that the Georgia railroad commission has the power to fix rates on inter-
192 state traffic or any proportion of such through rates. It is my information that they fix rates only within the State of Georgia.

24. Q. Are the rates from New York and other Northeastern cities for the haul through Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain to Atlanta just and reasonable in and of themselves?

A. In my opinion, the rates from New York, Philadelphia, and what you term Northeastern cities to Atlanta are just and reasonable in and of themselves.

25. Q. Would higher rates be charged from New York and other Northeastern cities to Atlanta but for competition?

A. I stated previously that the controlling factor in fixing the rate from New York, Phal*i*delphia, and Baltimore to Atlanta was the water lines to South Atlantic ports and the rail lines thence. In my opinion, that competition did not exist, the rates to Atlanta would not be as low as at present.

26. Q. Are not rates necessarily expressed in figures or numbers?

A. Yes, sir.

27. Q. Are they not the result of calculation?

A. The Louisville and Nashville Railroad does not compete for business from New York, Philadelphia, and Baltimore to Atlanta. The rate of $1.14 per hundred pounds to Atlanta was no doubt arrived at, calculating the competition of the water lines to the South Atlantic ports and the rail lines thence.

28. Q. In establishing that rate of $1.14 was not the first step to ascertain the cost of the service of carriage?

A. In my opinion, when the rate of $1.14 was established from New York to Atlanta, the question of the cost of carriage was not taken into consideration.

29. Q. In you opinion, is not the test of the reasonableness of a rate whether traffic will move under it and not be diverted from the road or line charging the rate to another road or line?

A. In judging of the reasonableness of a rate I have never taken into consideration the question of the diversion of business to competing lines.

30. Q. You consider that an immaterial matter, do you?

A. In judging of the reasonableness of a rate in and of itself I would not take into consideration the question of the diversion of the business to other lines.

31. Q. Is a rate in your opinion reasonable in and of itself which does not yield the carrier a proper remuneration over and above the cost of the service of carriage?

A. Speaking as a representative of the Louisville and Nash-
193 ville Railroad, I have no knowledge of that company having transported property at less than the cost of transportation.

32. Q. Is that the only answer you can give to that question?

A. I would say that any line transporting business at less than the cost of transportation would be making an unreasonably low rate.

33. Q. Is not, therefore, the expense of the service of carriage an element to be considered in determining whether a rate is a reasonable rate or not in and of itself?

A. In the transportation of the immense volume of traffic of the Louisville and Nashville Railroad it is impossible to determine how much traffic would move between any two points in any class or classes, and therefore it is apparent that it is impossible to reach any definite conclusion as to what the cost of carriage would be.

34. Q. Is it, in your opinion, impossible to determine whether a given rate yields a carrier anything in excess of the cost of the service of carriage?

A. In my opinion it is impossible to ascertain the cost of the carriage.

35. Q. Does not the cost or the expense of the service of transportation depend largely, or to some extent, on the length of the haul, other things being equal?

A. Yes, sir.

36. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. I do not understand what you mean by "other things being equal."

37. Q. Well, the rate of speed being the same?

A. There might be a great many things taken into consideration. For instance, you might take a railroad that was five hundred miles in length with no grades and have all large trains, and the cost of carriage over that road for five hundred miles might be considerably less than the cost of carriage over a line, say, passing through a mountainous country where the trains have a less number of cars, larger engines being required, the consumption of fuel greater, and the probability of the control of such trains requiring the railroad companies to employ additional help.

38. Q. The phrase "other things being equal" was intended to cover all those features. Will it not require twice the length of time to haul a train one hundred miles that it will require to haul it fifty miles, the rate of speed being the same in both hauls?

A. Yes, sir.

194 39. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. Other things being equal, yes, sir.

39½. Q. Other things being equal, is not the wear and tear on locomotives, cars, track, roadbeds, etc., greater the greater the length of the haul?

A. Yes, sir; but not proportionately.

40. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater the greater the length of the road?

A. Yes, sir; but not proportionately.

41. Q. Other things being equal, does it not require more locomotives and cars and crews for running trains on a long road than on a short road?

A. Yes, sir; but not proportionately.

42. Q. All other things being equal, does not distance add to the cost of building a road, and are not, therefore, the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. Yes, sir; proportionately.

43. Q. You stated that the rate from New York to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain were the lowest combination on either Augusta or Atlanta. Do you mean by

that, combination of through rates to Augusta and Atlanta plus local rates on, to, or back from those intermediate stations?

A. Yes, sir; that is what I meant to convey; that the rates to the points named were the sums of the rates from New York to Augusta or New York to Atlanta, with the local rates from those points to the points named.

44. Q. Is not the expense to the carriers of strictly local hauls greater per ton per mile than for the same distance on the long hauls?

A. Yes, sir.

45. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and the Ohio River?

A. Twenty-six years.

46. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter being included in the longer, ever, to your personal knowledge, been made in that territory before or since the enactment of the act to regulate commerce in 1887, except in cases of competition in transportation to the longer distance point?

A. Not to my knowledge.

195 NASHVILLE, TENNESSEE, *July 14, 1897.*

CARLTON HILLYER, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. Carlton Hillyer; 52 years; Augusta, Georgia; auditor Georgia Railroad.

2. Q. How long have you occupied your present position?

A. Since 1870; that is, twenty-seven years.

3. Q. Describe generally the nature of your duties?

A. I have charge of the accounts and statistical records of the Georgia Railroad.

4. Q. Please examine the printed statement here shown you, dated Augusta, Georgia, January 22, 1892, and purporting to be a statement prepared by C. S. Sikes, traveling auditor, under the supervision of Carlton Hillyer, auditor, and with the advisement of E. R. Dorsey, general freight agent, showing the relationship between the through and local freight business of the Georgia Railroad Company for the fiscal year ending June 30, 1891, and state under whose supervision it was prepared. State whether you gave it any examination or comparison, and if so, whether it is or is not correct, and file it as exhibit number one in this case.

A. Yes, sir; for said statement, just as any other statement involving the tonnage statistics which I may submit with these depositions, I claim substantial correctness without claiming absolute exactitude. Said statement was prepared from the books of the Georgia Railroad under my supervision. I gave it careful examination and comparison, and said statement is correct. I file it herewith.

(The statement referred to is hereto attached and marked Exhibit No. 1.)

5. Q. As I understand said statement, it shows the total tons of freight moved one mile, the total amount of revenue derived therefrom, the average rate realized per ton per mile from the freight, the local tariff freights, the through tariff freights, the total freights, the revenue which would have accrued if the local tonnage had been hauled at the through rates, and the difference or loss which would have been suffered by the Georgia Railroad had the local tonnage been hauled at the through rates. I understand the result of the statement is to show that if all the local freights had been hauled at the through rates, the amount of revenue which the companies did receive under the rates which
196 were charged would have been reduced $418,245.00 in the year ending June 30, 1891. Do I understand said statement and its result correctly? If not, please explain it.

A. Yes, sir; your understanding of it is correct.

6. Q. State what roads and how many miles of roads are represented in said statement.

A. The Georgia Railroad system have the main stem from Augusta to Atlanta, 171 miles; Athens Branch, Union Point to Athens, 40 miles; Washington Branch, Barnett to Washington, 18 miles; Macon Branch, Camak to Central Railroad Junction, 74 miles; and trackage right over the Central Railroad from the Junction to Macon, 4 miles; total, 307 miles.

7. Q. State the gross earnings, the expenses, and the net earnings of the road represented by said statement for each year since said road was leased.

A. I have prepared a statement showing that, and file the same herein as Exhibit No. 2.

(The statement referred to is hereto attached, marked Exhibit No. 2.)

8. Q. What is the cost of the road, including their terminals, represented by the statement filed as Exhibit No. 1 to your deposition?

A. The Georgia Railroad, including the main stem, Athens Branch, and Washington Branch, $4,200,000; Macon and Augusta Railroad, consolidated with Georgia Railroad, and now called the Macon Branch, $1,230,000; total, $5,430,000.

9. Q. Is the construction account of your company still open; and if not, when was it closed?

A. It was closed many years since and prior to the lease of the Georgia Railroad in 1881.

10. Q. By whom is the Georgia Railroad now operated, and in what capacity do they operate? What are the terms under which they operate it? File a statement showing the profit or loss realized by them from its operations since it has been in their charge as exhibit number 3 in this case.

A. The Georgia Railroad is now operated under the lease made to William M. Wadley, taking effect April 1st, 1881, for a term of 99 years at a rental of $600,000 per annum. At present the question as to the ownership of said lease is in litigation between the Louisville and Nashville Railroad Company and Messrs. Thomas and Ryan. A half ownership is claimed by Messrs. Thomas and Ryan, and the entire ownership is claimed by the Louisville and Nashville Co. I file said statement, marked Exhibit No. 3, showing a loss of $886,892.45 in the operations

of the Georgia Railroad from the beginning of the lease to June
197 30th, 1896. In addition to said loss, there was also paid out amounts aggregating $490,972.01 for the Athens extension of the Gainesville, Jefferson and Southern Railroad, and Union Point and White Plains Railroad, showing $1,377,864 46 as the excess of the payments over receipts.

(The statement referred to is hereto attached, and marked Exhibit No. 3.)

11. Q. Examine statement here shown you, dated Augusta, Georgia, September 23, 1896, purporting to be a statement prepared by Carlton Hillyer, auditor Georgia Railroad Company, showing the relationship between certain movements of through and local freights to, from, or passing through Augusta and Atlanta, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1894, the amount of freight business for said year being nearest to the yearly average of business for the three years ending June 30th, 1896. Say by whom said statement was compiled?

A. It was compiled by myself.

12. Q. Say whether said statement is or is not correct?

A. It is correct.

13. Q. File said statement as Exhibit number 4, in this case?

A. I file the same herewith as Exhibit number 4.

(The statement referred to is hereto attached, marked Exhibit number 4.)

14. Q. What would the loss in revenue to the Georgia Railroad have amounted to for the fiscal year ending June 30th, 1894, if said railroad had been compelled to carry freight shipped from New York and other points east of Kansas City, destined to local stations on its main stem, at the average through rates?

A. The loss would have been $7,603.

15. Q. What would the loss in revenue to said St. Louis Railroad have amounted to for said year if it had been compelled to carry freight shipped from New York and other points east of Kansas City destined to local stations on its branches at the average through rate?

A. The loss would have been $3,571.

16. Q. What would the loss in revenue to said railroad have amounted to for said year if it had been compelled to carry freight shipped from Augusta destined to local stations on its main stem at the average through rate?

A. The loss would have been $14,376.

17. Q. What would the loss in revenue to said railroad have
198 amounted to for said year if it had been compelled to carry freight from Augusta destined to local stations on its branches at the average through rate?

A. The loss would have been $7,375.

18. Q. What would the loss in revenue to said railroad have amounted to for said year if it had been compelled to carry freight shipped from Augusta destined to Atlanta at the average through rates?

A. The average loss would have been $1,506.

19. Q. What would the loss in revenue to said railroad have amounted to for said year if it had been compelled to carry freight shipped from

points west of Atlanta destined to local stations on its main stem at the average through rates?

A. The average loss would have been $15,587.

20. Q. What would the loss in revenue to said railroad have amounted to for said year if it had been compelled to carry freight from points west of Atlanta destined to local stations on its branches at the average through rates?

A. The loss would have been $4,117.

21. Q. What would the loss in revenue to said railroad have amounted to for said year if it had been compelled to carry freight shipped from Atlanta destined to local stations on its main stem at the average through rates?

A. The loss would have been $32,454.

22. Q. What would the loss in revenue to said railroad have amounted to for said year if it had been compelled to carry freight shipped from Atlanta destined to local stations on its branches at the average through rates?

A. The loss would have been $4,673.

23. Q. What would the loss in revenue to said railroad have amounted to for said year if it had been compelled to carry freight shipped from Atlanta, destined to Augusta at the average through rates?

A. The loss would have been $3,580.

24. Q. What was the mile tonnage of the total through freights to, from, or through Augusta and Atlanta carried by said railroad during said year?

A. 51,205,439 ton-miles.

25. Q. What was the mile tonnage of the total local freights to, from, or through Augusta and Atlanta carried by said railroad during said year?

A. 5,367,908 ton-miles.

26. Q. What amount of revenue was received by said railroad during said year from the total local freights to, from, or through Augusta and Atlanta?

A. Said amount was $151,802.

199 27. Q. What amount of revenue would have been received by said railroad during said year if the total freight to, from, or through Augusta and Atlanta had been carried at average through rates?

A. Said revenue would have been $56,960.

28. Q. What loss of revenue would have been suffered by said railroad during said year if the total local freight to, from, or through Augusta and Atlanta had been carried at average through rates?

A. Said loss would have been $94,842.

29. Q. What loss of revenue would have been suffered by said railroad during said year if the rates from New York and other points east of Augusta to Atlanta (via Augusta) had been advanced so as to be the same as the rates from the same points of shipment to local stations on said railroad between Augusta and Atlanta?

A. Competition would have caused us to lose all or nearly all of said business, which is $27,817. I think $817 would cover said freight that we might carry, even with said increased rates, and so the loss would be $27,000.

30. Q. What loss of revenue would have been suffered by said railroad during said year if the rates from points west of Atlanta to Augusta via Atlanta had been advanced so as to be the same as the rates from the same point of shipment to local stations on said railroad between Atlanta and Augusta?

A. Competition would cause us to lose all or nearly all of said business, which is $111,722. I think $6,722 would cover said freight as we might carry, even with such increased rates, and so the loss would be $105,000.

31. Q. Examine statement here shown you, dated Augusta, Georgia, September 23, 1896, and purporting to be a statement prepared by Carlton Hillyer, Auditor Georgia Railroad Company, showing the relationship between through and local freights of the Georgia Railroad Company, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1894, the amount of freight business for said year being nearest to the yearly average of business for the three years ending June 30, 1896. Say by whom said statement was compiled.

A. It was compiled by myself.

32. Q. Say whether said statement is or is not correct.

A. Said statement is correct.

33. Q. File said statement as Exhibit number 5 in this case.

A. I file statement herewith as Exhibit number 5.

200 (The statement referred to is hereto attached marked Exhibit No. 5.)

34. Q. What was the mile tonnage of through freight to, from, and through all points carried by said railroad during said year?

A. 61,094,368 ton miles.

35. Q. What was the mile tonnage of local freight to, from, or through all points carried by said railroad during said year?

A. 15,988,799 ton miles.

36. Q. What amount of revenue was received by said railroad during said year from local freights to, from, or through all points?

A. $418,531.74.

37. Q. What amount of revenue would have been received by said railroad during said year if local freight to, from, or through all points had been carried at average through rates?

A. Said revenue would have been $131,108.15.

38. Q. What loss of revenue would have been suffered by said railroad during said year if local freight to, from, or through all points had been crrried at average through rates?

A. Said loss would have been $287,423.59.

39. Q. Examine the statement here shown you, dated Augusta, Georgia, September 23rd, 1896, purporting to be a statement prepared by Carlton Hillyer, auditor of the Georgia Railroad Company, showing the percentage of first-class freight as compared with total freights in certain movements of freight to, from, or passing through Augusta and Atlanta, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1894, the amount of freight business for said year being nearest to the yearly average of business of the three years ending June 30, 1896. Say by whom said statement was compiled.

A. It was compiled by myself.

40. Q. Say whether said statement is or is not correct.

A. Said statement is correct.

41. Q. File said statement as Exhibit number 6 in this case.

A. I file the same herewith as Exhibit number 6.

(The statement referred to is hereto attached and marked Exhibit number 6.)

42. Q. Say whether or not said statement shows correctly the percentage which the miles tonnage of the first-class freight to, from, or
201 through Augusta and Atlanta bore to the mile tonnage of all freights to, from, or through Augusta and Atlanta and the subdivision thereof during said year.

A. Yes, sir; it does.

43. Q. How did the freight business of said railroad for said year compare with the average freight business of said road for the three years ending June 30th, 1896?

A. It was very near the average, and it is nearer the average than either of the two other years.

44. Q. How does the aggregate mile tonnage of all classes of freight shipped from New York and other points east of Augusta, delivered to the Georgia Railroad at Augusta and destined to stations between Augusta and Atlanta, compare with the miles tonnage of all classes of freight shipped from the same points and deliver to said railroads at Augusta destined to Atlanta and points west of Atlanta?

A. Said Eastern tonnage to Atlanta and beyond is five times as great as said Western local tonnage to stations on the main stem and branches.

45. Q. How does the mile tonnage on first-class freight shipped from New York and other points east of Augusta, delivered to said railroad at Augusta and destined to stations between Augusta and Atlanta, compare with the mile tonnage of all classes of freight shipped from the same points delivered to said road at Augusta and destined to same stations?

A. Said Eastern first-class local tonnage to stations on the main stem is only 1.85 per cent of the said local Eastern tonnage to said stations, and to stations on the branches it is only 2.04 per cent.

46. Q. How are the rates from New York, Philadelphia, etc., via Charleston to Augusta divided between connecting carriers?

A. They are divided on the basis of mileage. The steamers are allowed a constructive mileage of 250 miles; the South Carolina and Georgia Railroad is allowed 138 miles, making a total of 388 miles.

From New York and Philadelphia to Augusta the percentages are:

Steamers	64.4 per cent.
South Carolina and Georgia Railroad	35.6 per cent.
Total	100.0 per cent.

202 47. Q. How are the rates from New York, Philadelphia, via Charleston and Augusta, to Atlanta divided between the connecting carriers?

A. On the basis of mileage. The steamers are allowed a constructive mileage of 250 miles; the South Carolina and Georgia Railroad is allowed 138 miles and the Georgia Railroad 171 miles, making a total of 559 miles.

From New York and Philadelphia to Atlanta the percentages are:

Steamers	44.7 per cent.
South Carolina and Georgia	24.7 per cent.
Georgia	30.6 per cent.
Total	100.0 per cent.

48. Q. How does the freight business of the Georgia Railroad for the fiscal year ending June 30th, 1894, compare with the freight business of said company for the fiscal year ending June 30th, 1892?

A. Said freight business for the year ending June 30, 1894, was less by $127,015 than said freight business for the year ending June 30th, 1892.

49. Q. Please examine the statement here shown you, headed: "Fixed and obligatory charges. Statement showing the amount of taxes paid by the Georgia Railroad from the beginning of the lease, April 1st, 1881, to the close of the fiscal year ending June 30th, 1896. The taxes here shown were charged to operating expenses, and hence the statement of income shows the net after the taxes have been paid." Say who compiled said statement and whether it is correct.

A. Said statement was compiled by myself and it is correct.

50. Q. Please file it as "Exhibit number 7," in this case.

A. I file the same herewith as "Exhibit number 7."

(The statement referred to is hereto attached marked "Exhibit number 7.")

51. Q. Please examine the statement here shown you, headed: "Fixed and obligatory charges. Statement showing the interest on bonds and other charges paid by the Georgia Railroad on account of the Gainesville, Jefferson and Southern Railroad and the Union Point and White Plains Railroad from the beginning of the lease, April 1st, 1881, to the close of the fiscal year ended June 30, 1896. The amount here
203 shown are claims against said roads." Say by whom said statement was compiled, and whether or not it is correct.

A. Said statement was compiled by myself and it is correct.

52. Q. Please file it as Exhibit number 8 in this case.

A. I file the same herewith as Exhibit No. 8 in this case.

(The statement referred to is hereto attached and marked Exhibit number 8.)

53. Q. Please examine the statement here shown you, headed: "Augusta, Georgia, June 14, 1897. Statement showing amounts expended by Georgia Railroad on improvements in road and equipments from beginning of lease, April 1, 1881, to the close of the fiscal year ended June 30, 1896. The amounts here shown was charged to operating expenses, and hence the statement of income shows the net after the payments of these amounts." Say by whom said statement was compiled, and whether or not it is correct.

A. Said statement was compiled by myself and is correct.

54. Q. Please file the same as Exhibit number 9 in this case.

A. I file the same herewith as Exhibit number 9.

(The statement referred to is hereto attached marked Exhibit number 9.)

55. Q. Please examine the statement here shown you, headed: "State-

ment showing total Georgia Railroad freight revenue and mile tonnage of freight earning revenue, carried by the Georgia Railroad from the beginning of the lease, April 1st, 1881, to the close of the fiscal year ended June 30th, 1896." Say by whom said statement was compiled, and whether or not it is correct.

A. Said statement was compiled by myself and is correct.

56. Q. Please file the same as Exhibit number 10 in this case.

A. I file the same herewith as Exhibit number 10.

(The statement referred to is hereto attached and marked Exhibit number 10.)

57. Q. Please examine statement here shown you, headed: "Statement showing yearly averages of revenue expenses, tons, trains, and miles for Georgia Railroad freight business as per reports to the Interstate Commerce Commission, from the beginning of said reports, 1888, to the close of the fiscal year ended June 30th, 1896?

204 freight train mile for the years during which the rules for computing the same were in operation."

Say by whom said statement was compiled, and whether or not it is correct.

A. Said statement was compiled by myself and is correct.

58. Q. Please file the same as Exhibit number 11 in this case.

A. I file the same herewith as Exhibit number 11.

(The statement referred to is hereto attached marked Exhibit number 11.)

59. Q. I notice from the last mentioned statement, Exhibit number 11, that the estimated cost of carrying one ton one mile in cents and the estimated cost of running a freight train one mile are reported for the years 1888, 1889, 1890, 1891, 1892, and 1893, but they are not reported for the subsequent years. Why is that so?

A. The Interstate Commerce Commission, in the earlier reports required from the railroads, laid down certain rules for separating the expenses of freight business from the expenses of the passenger business. After considerable conference with the executive committee of the Association of the American Railway Accounting Officers, the Interstate Commerce Commission has decided that any exact separation of the expenses for the freight traffic and the expenses for the passenger traffic is not practicable. From and after 1894 the Interstate Commerce Commission has not required any such separation, nor any report separately of the cost of the passenger traffic and freight traffic.

60. Q. I notice that in said statement the cost of carrying one ton one mile and the cost of running a freight train one mile are both stated to be estimated. Explain how that estimate was made during the time that the commission required the estimates to be made.

A. Said rule laid down by the Interstate Commerce Commission required that all items naturally chargeable to the freight expenses shall be so charged, and that all other items of expense shall be apportioned between freight and passenger expenses on the basis of the ratio between passenger train mileage and freight train mileage. In this calculation mixed train mileage is distributed on the basis of one-fourth for the passenger business and three-fourths for the freight business.

61. Q. If I understand you correctly, the plan of distributing the

business between the freight and passenger business as indicated in your last answer has been abandoned by the Commission since 1894?

A. It has.

205 62. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. I do not know of anything else.

Cross-examination by Mr. SHAVER:

1. Q. Were not these 11 exhibits to your answers to the direct interrogatories prepared with especial reference to interstate-commerce cases?

A. They were.

2. Q. You say that the data in those exhibits were compiled by you. Compiled from what?

A. Mostly from the books of the company.

3. Q. Are those books kept by you?

A. They are.

4. Q. Do you personally make the entries in those books?

A. No, sir; except in some isolated cases. As a rule, no, sir.

5. Q. Those entries, as a rule, are made by other employees of the road?

A. They are.

6. Q. How do you get the data on which they base those entries?

A. From the way bills, ticket reports, agents' reports, vouchers, and other papers reaching my office in the course of business.

7. Q. Do you personally inspect those way bills, etc., to which you refer, very often?

A. I have occasion to do so, but I, of course, do not inspect all of them.

8. Q. The rule is that you do not?

A. Yes, sir; the rule is that I do not.

Counsel for the Commission moves to exclude as evidence each of these 11 exhibits on the ground that they are irrelevant and based on hearsay, and otherwise incompetent and illegal.

9. Q. As a general rule, is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at that point?

A. Wherever definite new industries are about to be established my observation has been that increased tonnage can be secured by a

206 reduction in the rate to and from the stations where said industries are located on such articles as may be produced or consumed by such industries. Indiscriminate and widespread reductions in rates do not, so far as I have been able to see, make any increase in the amount of tonnage. The revenue lost to the roads by reduction seems to go into the pockets of the producer, merchants, and consumers. From a railroad point of view it is so much money thrown away, as a rule.

10. Q. As a general rule, is not the natural tendency of a material reduction in rates to a given point towards the encouragement of the investment of capital at such points and the increase of its population?

A. I think so, sir; providing the reduction is intelligently applied to such articles of freight whose movements can be encouraged in that way.

11. Q. If it applied to all the classes of freight as classified, would it not include such articles?

A. It would; but the loss to the road on other articles would have a tendency to overcome any increase in the articles thus fostered.

12. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of those localities and discrimatory against the other benefit the one and injure the other?

A. I think that in such a case the locality enjoying the better rates is benefitted to the exclusion of the other.

13. Q. Do not Atlanta merchants trade at Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and in the territory adjacent in competition with the local merchants at those points?

A. I think they do. Just at present, I am not sure to what extent consumers deal directly with Atlanta merchants.

14. Q. If the rates to Madison, Social Circle, Covington, Conyers, and Stone Mountain were so reduced as to make them not higher than the rates for the longer haul through those points to Atlanta, would not this enable local merchants at those shorter distance points to compete more successfully with the merchants at Atlanta for business at those points and in the territories adjacent?

A. It would.

15. Q. Do not rates enter into and affect the prices of goods?

A. Yes, sir; to a much greater extent, however, upon some classes of goods than others.

207 16. Q. Do not, therefore, lower rates tend to bring about lower prices?

A. They do.

17. Q. Do not lower prices of goods bring those goods within the reach of more people and thus tend to increase the consumption of such goods?

A. It brings them within the reach of more people, provided the income obtained by said people is also not reduced.

18. Q. Does not the prosperity of a road depend more upon the prosperity of the local stations along its entire line than on that of a few widely separated trade centers or competitive points?

A. I think that roads differ very greatly in that respect. Some roads depend more largely upon their through business than others.

19. Q. Would it not be better policy for a road to have a system of rates which encouraged the growth and promoted the prosperity of the local stations along the entire line than a system of rates which is preferential to a few widely separated trade centers or competitive points, and discrim'atory against local stations?

A. I think the policy would depend upon the situation of the particular road. It would be a fortunate thing for any road to have a large local business.

20. Q. In a number of the 11 exhibits to your answers to the direct interrogatories, you stated certain losses which would accrue to the roads if the rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain were reduced so as not to be higher than the competitive rates to Atlanta. In estimating those losses, did you take into

consideration the fact that the tonnage of traffic to those intermediate shorter distance points might be increased by making the rates to those points as low as the Atlanta rates?

A. No, sir; I did not take such a possibility into consideration.

21. Q. You also stated that if the rates to Atlanta were advanced so as to make them as high as the rates to the shorter distance points, Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, that it would result in the diversion of traffic from the line involved in this case. Now, if the rates from New York and other Eastern cities to Atlanta over the lines involved in this case were advanced so as to make them not less than the rates charged to intermediate points, Greensboro, etc., and the rates on all the other lines from New York and Eastern cities to Atlanta were also advanced, would there result
208 any diversion of traffic from the line involved in this case to such other lines?

A. If the rates over the other lines were also advanced precisely in in such a way as to correspond with the advances on our line, it would not result in a loss of business to us.

22. Q. If the rule that there shall be no greater charge for the shorter than the longer haul, over the same line, in the same direction, the shorter being included in the longer, were observed by all the roads or lines from a given point to a given point, would it be necessary for any one of those roads or lines to depart from this rule in order to retain its share of the traffic and prevent diversion of its traffic over other roads or lines?

A. Assuming that the rates were nicely and accurately adjusted in that way, I do not think it would prevent the shortest line and the line having the best service from carrying the largest part of the business, regardless of the rates.

23. Q. Is not your opinion just and proper that the shortest line and the best line should control the traffic?

A. Yes, sir; it is.

24. Q. The rates involved in this case from New York, Philadelphia, and other Eastern cities to Atlanta were, in 1892, as follows:

Classes.												
1	2	3	4	5	6	A	B	C	D	E	H	F
111	98	86	78	60	49	36	48	40	39	58	58	78

Were they not?

A. Yes, sir; those were the rates.

25. Q. Are those rates, in your opinion, just and reasonable in and of themselves?

A. Certainly in my experience and work I have no means of deciding whether a rate is just and reasonable within itself, assuming that such a term could be properly employed in speaking of a rate. So far as I am able to judge, however, the said rates are reasonable.

26. Q. Is a rate reasonable, in your opinion, which does not yield the carrier a proper remuneration over and above the cost of the service of carriage?

A. In many cases it is altogether reasonable. After the expenditures have all been incurred and paid which are necessary for the running of a road, all additional freight carried is so much profit and in a certain sense might be carried regardless of the exact rate.

27. Q. If the carriage of this additional freight costs more than the revenue received by the road for the service of carriage, would those rates be reasonable?

A. If a certain quantity of additional freight actually and positively does entail an additional expense greater than the revenue on the same, then said additional freight is not profitable; but it is impossible to separate the exact cost of carrying any particular movement of freight from the cost of carrying the entire freight.

209

28. Q. If roads transport freight at less than the actual cost of the carrying of that freight, must not their financial operations necessarily result in loss?

A. Yes, sir; if the total cost of transporting all freight is greater than the total revenue on all freight, such would be the case, provided we could leave the passenger business out of consideration. Some roads have a larger passenger business in proportion to their freight business.

29. Q. If the revenue derived from the rates on certain classes is less than the actual cost of service in the transporting of the traffic, must not the operations of the road, so far as that traffic is concerned, result in loss?

A. So far as that particular traffic is concerned, yes; but the same service would in most cases be employed to transport other traffic.

30. Q. I referred to additional cost of transporting this particular traffic.

A. Yes; assuming that any such separation of the cost of the service for the particular traffic is practicable, such carriage of freight would entail a loss for that traffic.

31. Q. Do the rates which I have named from New York and other Eastern cities to Atlanta pay the roads anything in excess of the actual cost of carriage of that freight to Atlanta?

A. To answer that question it would be necessary to assume that there is a practical rule for showing the cost of transporting freight per ton per mile. Neither the accountants nor the Interstate Commerce Commission have been able to devise a method by which such cost of transportation can be shown.

32. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost or the expense of the service of carriage?

A. Those considerations must enter into the question of making the rate, but no definite figures in regard to them can be conclusive so as to settle the question as to whether the rates should or should not be made.

33. Q. Does not the cost of the expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. Yes, sir; it does.

34. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

210

A. It is.

35. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. It is.

36. Q. Other things being equal, is not the wear and tear on locomotives, cars, tracks, roadbeds, etc., greater the greater the length of the haul?

A. Yes, sir; it is.

37. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater the greater the length of the road?

A. It is.

38. Q. Does it not require more locomotives and cars and crews for running trains on a long road than on a short one?

A. It does; but the ratio of said expenses to the length of the road is greater upon the short lines than the long one.

39. Q. Greater per mile?

A. Greater per mile.

40. Q. But not greater in the aggregate?

A. Not greater in the aggregate; greater per mile.

41. Q. Other things being equal, does not distance add to the cost of building a road, and are not, therefore, the fixed charges, such as interest on the capital, greater the greater the length of the road?

A. It is.

42. Q. Is it your opinion that the financial condition of a road is a test or should be a test of the reasonableness of the rates charged by it?

A. No, sir.

I think it furnishes only one element for testing the reasonableness of the rate. I know roads which are located in a sparsely settled and unprofitable country, whose business is dependent upon the quantity of business in that territory and can not be influenced greatly by the rates.

43. Q. Those are exceptional cases, are they not?

A. Well, considerations of that sort enter so largely into the business of roads that the principal may be considered as applying to all except roads in prosperous centers.

44. Q. Is not the real test of the reasonableness of rates the value of the service and whether they yield the carrier a proper remuneration over and above the expense of the service?

A. Yes, sir; that is a fair test.

45. Q. Would not that be a fair test without reference to the financial condition of the road or whether its business was a paying business or not on the whole?

211 A. If the freights yield remunerative rates then its business would be a paying business.

46. Q. It might have so little business paying rates that its entire operations might result in loss, might it not?

A. Yes, sir; and that is what I had in mind a few moments ago when I spoke of a road whose business could not be profitable by any arrangement of rates, on account of its unfavorable situation.

47. Q. Running through a sparsely settled country, I think you said?

A. Yes, sir.

48. Q. Is that the condition of the Georgia Railroad?

A. No, sir, except to a partial extent as regards some of its branches.

49. Q. Are not the rates from New York and other Eastern cities to Greensboro, Madison, Social Circle, Covington, and Stone Mountain made up by combination of through rates to Atlanta plus local rates?

A. Yes, sir, they are. The rate is made up of a combination basing on the nearest competitive points up to the local stations.

50. Q. Either Augusta or Atlanta?

A. Either Augusta or Atlanta.

51. Q. Is not the expense to the carrier of strictly local hauls greater per ton per mile than for the same distance on long through hauls?

A. Yes, sir, it is much greater.

52. Q. How long have you been engaged on the railroad business in the territory east of the Mississippi and south of the Virginias and the Ohio River?

A. For 27 years.

53. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge been made in that territory before or since the enactment of the act to regulate commerce in 1887, except in cases of competition in transportation to the longer distance point?

A. No, sir. So far as I can see and remember, it has been competition which has caused a greater charge for a shorter haul. I am not sure, however, just now that there might not be other causes connected with water transportation, or shortness of the route, or situation of the road, which might in some cases have produced such a result.

54. Q. But you have no personal knowledge of such cases in that territory?

212 A. I do remember that in the case of the Rome Railroad, extending from Kingston to Rome, said road being usually short, and on account of its having a terminus at Kingston and the terminus at Rome an arbitrary proportion was allowed to said road much greater than it would be entitled to by its actual mileage.

55. Q. Did that result in a greater charge for a shorter than a longer haul over the line of that road?

A. It consisted in the manner of dividing the through rates between the carriers. I do not know whether it ought properly to be called a greater charge for a shorter distance or not; but I suppose so.

56. Q. Did that road make any greater charge for a point intermediate between Kingston and Rome than for the haul from Kingston to Rome?

A. I, of course, do not know what their local rates were, but it is probable that they followed the same principle as to local rates on other roads in that particular.

57. Q. Would that not be the result of competition at Rome?

A. It would.

58. Q. Are you familiar with the practice in the eastern territory and in the trunk line territory north of the Ohio River as to making the greater charge for the shorter than the longer haul over the same lines in the same direction, the shorter being included in the longer?

A. No, sir; I am not familiar with that.

Redirect examination by Mr. BAXTER:

1. Q. How many different books are required in your office to keep the accounts and statistics of the Georgia Railroad?

A. A very large number. Of course we have books extending over a period of years. I do not happen to have estimated that precisely by counting the exact number of volumes. They are very numerous, however.

2. Q. Could you give a rough estimate?

A. Yes, sir. You mean accounts as well as statistics?

4. Q. Yes, sir; accounts and statistics is my question.

A. I would say at present at least 75 volumes.

5. Q. And how many waybills, bills of lading, vouchers, agents' reports, and other papers have to be examined daily in your office in order to keep the accounts and statistics of the Georgia Railroad?

213 A. Of course the quantity differs at different periods of the year, but as a rough estimate, I would say as an average 2,000 of such papers per day.

6. Q. How many clerks or other assistants do you have in your office to assist in the keeping of such accounts and statistics?

A. 23 besides myself.

7. Q. Are those clerks assistants under your personal supervision and control?

A. They are.

8. Q. Is it practicable for you or any other one man to keep all of the accounts and statistics of your road?

A. It is not.

9. Q. Is it practicable for the lines operating between New York and Atlanta to advance the rate from New York to Atlanta and maintain them, so as to be as high as the rates charged from New York to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain?

A. I do not think it is practicable to do that.

10. Q. Why not?

A. I know of no authority to enforce it even if it were possible to make the exact adjustment on classification and rates, which would be necessary in order to avoid any possible case under which freight would be hauled for a longer distance at a less rate.

11. Q. What is the rate on first class from New York to Social Circle or Covington?

A. To Social Circle the rate on first class is $1.44 per hundred pounds from New York via Charleston.

12. Q. Now, suppose the rate from New York to Atlanta should be made $1.44, would it not be cut by the ocean rate to South Atlantic points plus the Georgia railroad commission rate to Atlanta?

A. It would.

16. Q. What is the average capacity of freight locomotives on the Georgia Railroad, measured in full loaded freight cars?

A. The average number of loaded freight cars which we carry in a train in actual service is about nine.

14. Q. My question was as to the average capacity—how many your engines could pull?

A. It of course depends upon the capacity of the cars, because said

capacity varies greatly, and I do not think there is any authoritative number of cars mentioned among railroad men as being at present the capacity of one of our engines; but, speaking in general terms, I would say that the engines on our roads would be able to haul at least 18 or 20 loaded cars.

15. Q. Now, if the average freight locomotive on the Georgia
214 Railroad can haul, say, 18 fully loaded freight cars, and the average number of fully loaded freight cars which are actually carried in the freight train on that road is only nine, could not that company afford in each of its trains to pull at least an average of nine fully loaded cars at a very much less additional cost than it would have to charge for the nine cars which it finds to be the representative of its average traffic?

A. It could.

NASHVILLE, TENN., *July 14, 1897.*

JAMES R. THOMPSON, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. James R. Thompson; 43 years old; Atlanta; with the Southeastern Freight Association.

2. Q. State whether you were connected with the Southern Railway and Steamship Association and afterwards with its successor, the Southern State Freight Association; and if so, in what capacity.

A. Yes, sir; I was clerk in the statistical department.

3. Q. In both associations?

A. Yes, sir.

4. Q. Please examine the statement here handed you headed "Statement of tonnage from the Eastern seaboard and interior points in New England, New York, Pennsylvania, Maryland, Delaware, and West Virginia to Atlanta, Ga., during the year ended March 31st, 1893." State whether you compiled said statement from the records of the Southern Railway and Steamship Association.

A. Yes, sir; I compiled it from the records of the Southern Railway Association.

5. Q. If you say you compiled said statement as aforesaid, state whether you compiled it correctly and filed it as Exhibit number 12 in this case?

A. Yes, sir; I compiled it correctly from the records and I file it herewith as Exhibit number 12.

(The statement referred to is hereto attached, marked Exhibit No. 12.)

6. Q. State whether the figures under the head of "Weight" refer to pounds or tons.

A. Pounds.

7. Q. Please examine the statement headed "Classified statement of tonnage from points on and beyond the Ohio and Mississippi
215 rivers and from and via Lexington, Kentucky, and from Nashville, Tennessee, Johnsville, Tennessee, and Florence, Sheffield, and Riverton, Alabama, to Atlanta, Georgia, during the year ended March 31st, 1893." State whether you compiled said statement from the records of the Southern Railway and Steamship Association.

A. I did; and it is correctly compiled, from the records.

8. Q. File said statement as Exhibit No. 13 in this case.

A. I file the same herewith.

(The statement referred to is herewith attached, marked Exhibit number 13.)

9. Q. State whether the figures in the body of said statement refer to pounds or tons.

A. Pounds.

10. Q. Under the heading of "Lines" there appear certain initials. Give the names in full of the railroads referred to by said initials.

The Louisville and Nashville Railroad.
The Cincinnati Southern Railway.
The Louisville Southern Railroad.
The Newport News and Mississippi Company.
The Ohio Valley Railroad.
The Alabama Railroad.
The Illinois Central Railroad.
The Mobile and Ohio Railroad.
The Nashville, Chattanooga and St. Louis Railway.
The Memphis and Charleston Railroad.
The Kansas City, Memphis and Birmingham Railroad.
The Yazoo and Mississippi Valley Railroad.
The Georgia Pacific Railway.
The Alabama and Vicksburg Railway.
The New Orleans and Northeastern Railroad.
The Birmingham, Sheffield and Tennessee River Railway.
The Richmond and Danville Railroad.

11. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at length in your answer.

A. I do not know that I can.

Cross-examination by Mr. SHAVER:

1. Q. What relation did you say you sustained to the Southern Railway and Steamship Association?

216 A. I was a clerk in the statistical department.

2. Q. For how long and during what period?

A. I have been with them for nearly ten years. The Southern Railway and Steamship Association, the Southern States Freight Association, and the Southeastern Freight Association.

3. Q. Was the Southern Railway and Steamship Association in existence during 1892?

A. Yes, sir.

4. Q. Did you compile the data that is in the two exhibits, numbered 12 and 13, presented by you in your direct examination?

A. Yes, sir; I took them from the association's records. Of course I did not get up all those statements, but I did that from the printed records.

5. Q. From the records of the Southern States Freight Association?

A. Yes, sir.

6. Q. When did that association come into existence?

A. I could not tell you the exact year. I could get it for you at the office.

7. Q. Did not the Southern Railway and Steamship Association cease to exist in 1895?

A. Two years ago that would be. That is just about the time.

8. Q. These statements—Exhibit numbers 12 and 13 to your answer—purport to contain data for the year which ended March 31, 1893.

A. Yes, sir; that was taken from the Southern Railway and Steamship Association's records.

9. Q. And not from the records of the Southern States Freight Association?

A. They are just one. One went into the other. In 1893 it was the Southern Railway and Steamship Association, and we were working under the Southern States Freight Association when they were made, but afterwards they were taken from the records of the Southern Railway and Steamship Association.

10. Q. You have no personal knowledge of the accuracy of the data contained in either of these exhibits, have you?

A. Yes, sir; I helped get it up from the billing—taken from the billing of the railroads sent to us every day. Now, that Western statement I helped get up from the billing. The Eastern statement I took from the records after it was gotten up.

Counsel for the Commission moved to exclude Exhibit number 12 and 13, on the ground that they are irrelevant, based on hearsay, and otherwise incompetent and illegal.

11. Q. Will you please examine this document and state
217 whether it is the agreement of the Southern States Freight Association made the third day of October, 1895?

A. I could not tell you by just reading that, but I could not swear to it. I do not know anything about that.

12. Q. What is your relation to that association?

A. I am just a clerk.

13. Q. And you can not identify that as an agreement of that association of that date?

A. No, sir; I could not say that was it. I can only say what is before me there—I could not prove it.

Mr. BAXTER. Exhibits numbered 14 and 15 presented to the witness by counsel for the commission are agreed to by counsel for the defendants to be correct copies of the agreement, which they purport to be.

(The agreements above referred to are hereto attached, marked Exhibits Nos. 14 and 15.)

Redirect examination by Mr. BAXTER:

1. Q. How were the statistics contained in Exhibits numbered 12 and 13 to your deposition obtained by the Southern Railway and Steamship Association? From whose records were they compiled?

A. It was taken from the billing that was sent in by all the railroads to our office on all competitive buisness.

2. Q. Did each of the railroad companies that was a member of the Southern Railroad and Steamship Association send into that association copies of all its billing for transportation of competitive freight?

A. Yes, sir.

3. Q. And it was from those bills that those statistics were originally compiled by the association?

A. Yes, sir.

4. Q. How many of those bills, on an average, do you suppose were received by the association daily—rough estimate?

A. I suspect we get about two or three thousand bills a day.

5. Q. How many clerks were required to compile the statistics for those bills?

A. Fourteen, I think, in our department.

6. Q. Did you get bills from any railroad companies that were not members of the association?

A. I do not think we did.

Recross-examination by Mr. SHAVER:

218 1. Q. All those companies named on Exhibits 12 and 13 were members of the Southern States Freight Association?

A. Yes, sir.

2. Q. And you said that that data was taken from the record of the Southern Railway and Steamship Association?

A. Yes, sir.

3. Q. Those roads were also members of the Southern Railway and Steamship Association, were they not?

A. Yes, sir; I think they were.

Redirect examination by Mr. BAXTER:

1. Q. The Southern States Freight Association succeeded the Southern Railway and Steamship Association, did it not?

A. Yes, sir.

2. Q. And all the records of the latter were turned over to the former?

A. Yes, sir.

3. Q. What association succeeded the Southern States Freight Association?

A. The Southeastern Freight Association.

4. Q. Were all the records of the Southern States Freight Association turned over to the Southeastern Freight Association?

A. Yes, sir; at least, I suppose they were. We have all of them. We kept them. It is exactly the same thing and has another name. It is not the same altogether.

5. Q. Are all the roads which are named in Exhibits Nos. 2 and 3 members of the Southeastern Freight Association?

A. No, sir.

NASHVILLE, TENN., *July 15, 1897.*

JOSEPH M. BROWN, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. Joseph M. Brown; 42nd birthday; my personal residence is Marietta, Georgia; my official residence, Atlanta, Georgia; occupation, traffic manager of the Western & Atlantic Railroad Company.

2. Q. How long have you been connected with the railroad freight transportation business in the United States, and in what capacities?

A. Since the 1st day of January, 1887. I went into the service as freight clerk, and filled a number of subordinate positions, as
219 freight conductor, lost-car agent, and as inspection agent here at Nashville, claim agent, car accountant, general freight agent, general freight and passenger agent, and traffic manager.

3. Q. In this case the Interstate Commerce Commission ordered the defendant to desist from charging for the transportation of like kind of property from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, more than to Atlanta. The rates from New York, Philadelphia, &c., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain and Atlanta were, as shown by the report and opinion of the Commission in 1892, as follows:

	Classes.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	54	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	44	43	69	87	86
Conyers	138	119	105	90	74	59	47	59	44½	43	70	85	87½
Stone Mountain	132	114	101	85	71	58	45	57	47	44	69	80	89½
Atlanta	114	98	86	78	60	49	36	48	40	39	58	68	78

State what in your opinion would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, so as to make up for any loss of revenue that would otherwise result. Give your reasons for any opinion you may express.

A. I do not think the reductions in the rate to the points mentioned will have the effect of increasing the movement of traffic to any material extent. Whatever increase of the business would come to the railroad could not be commensurate with the loss of revenue which the railroad would sustain by reason of the reductions mentioned in your question. The reductions, while a material item to the railroad, is not noticeable when distributed among various consumers and would not, therefore, act as an inducement to them to purchase beyond their regular needs.

220 4. Q. State whether the rates from New York, Philadelphia, etc., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are just or unjust, reasonable or unreasonable, and give your reason for any opinion you may express.

A. I think that the rates shown in the question before this are just and reasonable. They are fixed on the basis of the through rates to Atlanta and Augusta, plus the local rates therefrom. Through rates to the aforesaid basing points are fixed with relation to the various circumstances and conditions which pertain in the movement of traffic to competitive points. The local rates of the Georgia Railroad prescribed by the railroad commission of Georgia are what are termed by the Georgia

board "standard rates." Only three roads in the State use standard rates, the Western and Atlantic Railroad, the Rome Railroad, and the Georgia Railroad, all other lines applying higher rates.

5. Q. State what lines actually and actively competed in 1892 and now compete from New York, Philadelphia, etc., in transportation to Atlanta of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. The following lines competed in 1892 and now compete from Eastern cities for the transportation of freight governed by class 1 to H, inclusive, to Atlanta:

The Pennsylvania Railroad.
The Baltimore and Ohio Railroad.
The Western Maryland Railroad.
The Cumberland Valley Railroad.
The Philadelphia and Reading Railroad.
The Richmond and Danville Railroad (now called the Southern Railway.)
The Atlantic Coast Line.
The Georgia Railroad.
The Seaboard Air Line.
The East Tennessee and Virginia Railroad (now called the Southern Railway).
The Old Dominion Steamship Company.
The Ocean Steamship Company.
The Clyde Line.
The Merchants and Miners' Transportation Company.
The Bay Line.
The Mallory Line.
The Central of Georgia Railroad.
The South Carolina and Georgia Railroad.

6. Q. State what lines actually and actively competed in 1892
221 and now compete from Ohio River points and sections of the country other than New York, Philadelphia, etc., in transportation to Atlanta of freight classified as above.

A. The Louisville and Nashville Railroad.
The Nashville, Chattanooga and St. Louis Railway.
The Cincinnati, New Orleans and Texas Pacific Railway.
The Louisville Southern.
The Mobile and Ohio Railroad.
The Memphis and Charleston.
The Illinois Central Railroad.
The Ohio Valley Railroad.
The Newport News and Mississippi Valley Company.
The East Tennessee and Georgia (now called the Southern Railway).
The Western and Atlantic Railroad.
The Chattanooga, Rome and Columbus Railroad.
The Kansas City, Memphis and Birmingham Railroad.
The Georgia Pacific (now the Southern).
The Yazoo and Mississippi Valley.
The New Orleans and Northeastern Railroad.
The Port Royal and Augusta (now called the Charleston and Western Carolina).

The Savannah, Florida and Western (that is now termed the Plant System).

The Brunswick and Western (now included in the Plant System).

The South Carolina (now the South Carolina and Georgia).

The Charleston and Savannah (now included in the Plant System).

The Atlantic Coast Line.

The Richmond and Danville (now part of the Southern Railway).

7. Q. State whether or not the Western and Atlantic Railroad and its connections actually and actively compete for the carriage of freight of said various classes to Atlanta; and if so, from what cities.

A. The Western and Atlantic and its connections actually and actively compete for the carriage of freight classified from 1 to 8, inclusive, to Atlanta from Ohio and Mississippi river points and points north and west thereof.

8. Q. Does your railroad or its connections have agents at said cities to solicit said freight for transportation to Atlanta?

A. The Western and Atlantic Railroad have agents at Cincinnati, Memphis, Cairo, and Chicago. The connections of the Western and Atlantic have representatives at several of the principal northern
222 and western trade centers. They solicit freight covered by classes 1 to 8, inclusive, for transportation to Atlanta.

9. Q. Does your railroad or its connections advertise at said cities for transportation of said freight to Atlanta?

A. The Western and Atlantic Railroad advertises at Cincinnati, Memphis, Cairo, and Chicago for the carriage of freights to Atlanta. The connections of the Western and Atlantic at the cities where agencies are established advertise for the carriage of freight to Atlanta.

10. Q. State whether the rates on freight of the various classes from New York, Philadelphia, etc., to Atlanta are controlled to any, and if so, to what extent by competition.

A. The rates from New York, Philadelphia, etc., to Atlanta are controlled by competition. It is the competition between the all-rail and the rail-and-water lines, competition of markets, producing and consuming, as well as competition of products, which exert considerable influence in the adjustment of rates.

11. Q. I said competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. The competition between rail and water carriers substantially affects the circumstances and conditions under which the transportation of freight is conducted.

12. Q. State whether there is any such competition at Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain as is sufficient to affect the rates charged by the lines from New York, Philadelphia, etc., via Charleston and Augusta.

A. There is no competition at Greensboro, Social Circle, Conyers, and Stone Mountain; at Madison and Covington there is slight competition, but not of the nature that exists at Athens, Atlanta, or Augusta.

13. Q. Were the Clyde Steamship Company, or what was formerly known as the South Carolina Railroad Company, and the Georgia Railroad and Banking Company, and the Louisville and Nashville Railroad

Company, and the Central Railroad and Banking Company of Georgia under any common control or management in 1892, or have they been since that time?

A. The lines you mention were not under any common control or management in 1892, nor have they been since that time.

14. Q. Explain the basis of making rates from New York, Philadelphia, etc., to Atlanta. Are the rates fixed by the Georgia railroad commission from the Georgia seacoast to Atlanta taken into consideration?

A. Since about 1870 the rates from New York, Philadelphia, etc., to Atlanta have been the subject of more or less consideration by
223 the carriers interested. The records of the Southern Railway and Steamship Association show that in August, 1892, a basis for fixing rates from Eastern cities to Atlanta was agreed upon. The two factors used in determining the rates were the figures of the coastwise steamship lines plying from New York to Savannah plus the figures from Savannah to Atlanta, which are practically the rates of the railroad commission of Georgia. The lapse of time has in a measure varied slightly the foregoing, but in the main the basis of 1882 is still in effect. The rates from New York, Boston, and Philadelphia were made the same as New York. Competition of markets, carriers, and products brought this about. Baltimore rates were made differentials less than New York. These differentials ranged from seven cents on the first class to one cent on the lowest class. The rates of the railroad commission of Georgia from the Georgia coast cities to Atlanta play an important part in adjustment of rates from Eastern points. Shipments have been made and can be made from Cincinnati to Atlanta via the route indicated in the question without through bills of lading. They take a schooner to Brunswick and then apply the Georgia commissioner's local rates to Atlanta. That is done very frequently. The rates are made to Atlanta that way.

15. Q. State whether freight has been and can be carried from Cincinnati, Ohio, to Baltimore, Maryland, and other Eastern cities via the trunk lines, and thence by independent steamships or sailing vessels to Southern ports, and then to Atlanta by railroad wholly within the State of Georgia, and whether such shipment has been made and can be made without issuing through bills of lading?

A. Rates which have been made and can be made by the trunk lines from Cincinnati to Atlanta via the route indicated in your question are in a measure potent in fixing the rate by the direct all-rail lines from Cincinnati to Atlanta.

Quite a notable instance of how the direct all-rail rates are affected by Baltimore and Southern coast competition was shown in the movement of cotton ties from Pittsburg to interior Georgia points, including Atlanta, within the past few months. There was a very low rate made by the trunk lines to Baltimore and the Merchants and Miners' Company made a very low rate to Savannah, which, added to the Georgia railroad commissioner's rate to Atlanta, *but* the established rates from Pittsburg via Cincinnati to Atlanta several cents.

16. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause,

or either of them, or that may be material to the subject of this
224 your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. I know of nothing else material to this issue.

Cross-examination by Mr. SHAVER:

1. Q. If the rates from New York and other Northeastern cities to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain were so reduced as to make them not higher than the Atlanta rates, would not that be a benefit to the merchants at those intermediate points?

A. I do not think it would be of any material benefit to them.

2. Q. The rate on first-class traffic from New York and Philadelphia to Madison and Social Circle is $1.44 per hundred, while to Atlanta for the longer hauls through those points it is only $1.14 per hundred pounds, making a difference of thirty cents in favor of Atlanta. Is not that material difference in the rate?

A. There is a considerable difference there.

3. Q. Does not the prosperity of the merchants and business men of the town promote the prosperity of the town generally?

A. Well, that will hold to a considerable extent.

4. Q. You have stated that the rates from New York and other Eastern cities involved in this case to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are reasonable in and of themselves. Are the lower rates for the longer hauls through those intermediate points to Atlanta also reasonable in and of themselves?

A. Yes, sir; I think they are.

5. Q. Would higher rates be charged to Atlanta but for competition?

A. Yes, sir.

6. Q. Is a rate reasonable in and of itself which does not yield the carrier a proper remuneration over and above the cost of service of carriage?

A. I should say not. If carried for less than cost, it would be unreasonably low.

7. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first ascertaining the cost or expense of the service of carriage?

A. Well, it is very hard to determine regarding each particular shipment. Probably it is impossible to determine regarding each particular shipment whether it, considered by itself, is remunerative or not. There are so many conditions attending the running of trains and so many cars
225 that an engine can carry, and things of that kind, that I do not see how we can lay down a general rule that would cover the case.

8. Q. Is not the expense of the service of carriage an element to be considered in determining whether a rate or a set of rates is reasonable?

A. In general, yes.

9. Q. Does not the cost or expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. Well, I should say that is a factor.

10. Q. Other things being equal, is not the consumption of time greater, the greater the length of the haul?

A. Necessarily so, other things being equal.

11. Q. Other things being equal, is not the consumption of fuel greater, the greater the length of the haul?

A. As a general proposition, yes.

12. Q. Other things being equal, is not the wear and tear on locomotive, cars, tracks, road beds, etc., greater, the greater the length of the haul?

A. Yes, sir; the more miles to be traversed, the more the wear and tear on the tracks and things of that kind, as a general proposition.

13. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater, the greater the length of the road?

A. All other things being equal, I should say so.

14. Q. Other things being equal, does it not require more locomotives and cars and crews for the running of trains on a long road than on a short one?

A. That would vary with the length of the road quite materially.

15. Q. Other things being equal, does not distance add to the cost of building a road, and are not, therefore, the fixed charges, such as interest on the capital invested, greater, the greater the length of the road?

A. The character of the country being the same, whether a plain country or mountainous, I should say so.

16. Q. How long have you been engaged in the railroad business east of the Mississippi and south of the Virginias and the Ohio Rivers?

A. Something over twenty years.

17. Q. Has the greater charge for the shorter than the longer haul, over the same line, in the same direction, the shorter haul being
226 included in the longer, ever, to your personal knowledge, been made in that territory, except in cases of competition in transportation to the longer distance point?

A. I do not know that it has, sir, of my own observation.

18. Q. Are not the rates involved in this case from New York and other Eastern cities to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain made up by combining the through rate to Augusta or Atlanta with the local rates back from Atlanta or on from Augusta, as the case may be, to those intermediate points?

A. I think it is generally made that way.

19. Q. Is not the expense to the carrier of strictly local hauls greater per ton per mile than on long through hauls?

A. Yes, sir.

20. Q. Does the Georgia Railroad attempt to fix rates on interstate commerce or any proportion of such rates?

A. Not except in the case of the Western and Atlantic road, as I told you this morning, where the right is reserved in the lease to the road to the Nashville, Chattanooga and St. Louis Railway to fix its rates through to the terminus in Tennessee. Otherwise they exercise no control over insterstate traffic.

21. Q. Could the State of Georgia give the railroad commission of Georgia any authority to fix rates or any proportion of rates on interstate commerce?

A. Not as a rule.

22. Q. Could they in any case?

A. In the one case I have instanced, the road belongs to the State, and

she has a right in leasing the road to say what rates shall be charged over the road in its entirety.

23. Q. As a matter of law, has the State of Georgia any right to fix rates on interstate commerce? Is not that a matter of Federal jurisdiction?

A. Yes, sir; as a matter of general law, but I do not think it is, in the case of leasing her own road, in violation of the interstate commerce law. It is her own property.

24. Q. Can not all the lines which you have named as competing for the traffic between New York and other Eastern cities and Atlanta be formed also to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain by combinations with the Georgia Railroad as the terminal carrier?

A. They could if the Georgia Railroad consented.

25. Q. Is not traffic transported from New York and other Eastern cities over the line involved in this case, namely, the lines formed by the Clyde Steamship Company to Charleston, then by the South Caro-
227 lina Railway Company to Augusta, and thence by the Georgia Railroad to Greensboro, etc., under through rates?

A. Yes, sir; I should say that all rates that go from one road off on to another are what we might term through rates.

26. Q. Are not the rates by all lines from New York and other Northeastern cities to Atlanta the same?

A. Yes, sir; they are the same by all of the rail and water lines, but the all-rail lines working from New York through Washington and Hagerstown to Atlanta and points basing on Atlanta are certain differentials higher than the rail and water lines.

27. Q. The rates by all the rail and water lines are the same?

A. Yes, sir.

28. Q. And the rates by all the rail lines are the same?

A. Yes, sir. There are two all-rail lines and the rates are the same. There are three or four lines rail and water, and they are the same. But the rail lines are eight cents higher on first class, going on down to one or two cents in the lower classes than the rail and water lines.

NASHVILLE, TENNESSEE, *July 16, 1897.*

R. E. LUTZ, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. R. E. Lutz; residence, Montgomery, Alabama; age, 46; freight traffic manager of the Atlanta and West Point Railroad and the Western Railway of Alabama.

2. Q. How long have you been connected with the railroad transportation business in the United States, and in what capacities?

A. In transportation and traffic about twenty-eight years. I first started out as telegraph operator, then as local agent, then as train dispatcher, then as contracting freight agent, then as chief clerk, clerk in the general freight office, and then traffic manager.

3. Q. In this case the Interstate Commerce Commission ordered the

defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, &c., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and
228 Stone Mountain, more than to Atlanta. The rates from New York, Philadelphia, &c., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and Atlanta, were, as shown by the report and opinion of the Commission, 1892, as follows:

	Classes.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	54	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	44	43	69	87	86
Conyers	138	119	105	90	74	59	47	59	44½	43	70	85	87½
Stone Mountain	132	114	101	86	71	58	45	57	47	44	69	80	89½
Atlanta	114	98	85	78	60	49	36	48	40	39	58	68	78

State what in your opinion would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain so as to make up for any loss of revenue that would otherwise result. Give your reasons for any opinion you may express.

A. A reduction of rates to Georgia Railroad stations named as ordered by the Interstate Commerce Commission would have the effect of reducing to this extent the proportion that would accrue to the Georgia Railroad. The entire reduction as ordered by the Interstate Commerce Commission would come out of the proportion of the rate that now accrues to that road; and while making a serious reduction in the revenue of that road, it would not affect the revenue of the lines delivering the business to the Georgia Railroad. For instance, to Social Circle, on a shipment from New York via Charleston and Augusta, the Georgia Railroad Company now receives for its proportion fifty-one cents per hundred pounds on first class, while under the reduction, which would be twenty cents per hundred pounds, the Georgia Railroad revenue would be decreased practically 40 per cent, with a corresponding reduction on all other traffic. While this would be a heavy decrease in the revenue of the Georgia Railroad, the difference in the through rates would not be sufficiently great to have the effect of increasing the volume of business. The
229 great majority of the shipments from New York and like distributing centers to small towns, such as the stations on the Georgia Railroad, are made necessarily in less than carload quantities and are embraced in the first six classes. That this reduction would increase the volume of the business through increased consumption appears to be entirely improbable. To Social Circle, where the reduction is the greatest, it would only amount to two cents on a suit of clothes, supposing it to weigh only ten pounds, and a small fraction on other like light-weight miscellaneous high-class goods.

4. Q. State whether said rates from New York, Philadelphia, etc., via Charleston and Augusta, to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. I believe that the rates from New York and other Eastern cities to the Georgia Railroad stations named to be just and reasonable in themselves, as the rate per ton per mile does not indicate them to be otherwise, and inasmuch as they are not higher than the rates from other points of distribution and to stations on other roads under similar circumstances and conditions.

I attach hereto as Exhibit number 14 memorandum of rates and distances from New York to stations on the Augusta Southern Railroad, the Wrightsville and Tennille Railroad, and the Brunswick and Western Railroad, which shows that the rates to these points are as high or higher, considered on the mileage basis, than the rates complained of to the Georgia Railroad stations.

(This statement referred to is hereto attached, marked Exhibit number 14.)

5. Q. State what lines actively and actually competed and now compete from New York, Philadelphia, etc., in transportation to Atlanta, Georgia, of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. The following lines actively competed for business from New York, Philadelphia, etc., in transportation to Atlanta, Georgia, and did in 1892 and do now.

From New York, Philadelphia, etc., via Cincinnati, in connection with the Louisville and Nashville Railroad and the Cincinnati, New Orleans and Texas Pacific Railway.

And through the all-rail gateways of Hagerstown, Alexandria, or Richmond in connection with the Norfolk and Western Railway.

The Southern Railway.

The Atlantic Coast Line and the Seaboard Air Line.

The four last-named railroads also actively compete from
230 Norfolk, Portsmouth, Richmond, and Wilmington for Eastern business up to those points by water.

And the South Carolina and Georgia Railroad.

The Charleston and Western Carolina Railroad.

The Georgia Railroad.

The Southern Railway and the Seaboard Air Line compete for Eastern business through the port of Charleston.

The Central Railroad.

The Plant System.

The Florida Central and Peninsular.

The Charleston and Western Carolina Railroad.

The Georgia Railroad.

The Georgia and Alabama Railway.

The Georgia Southern and Florida Railroad.

The Western Railway of Alabama and the Atlanta and West Point railroads compete for business through the port of Savannah.

The principal steamship lines competing for Eastern business to Atlanta are:

The Clyde lines.

The Old Dominion Steamship Company.

The Merchants and Miners' Steamship Company.

The Ocean Steamship Company and the Mallory Line.

6. Q. State what lines actually and actively competed in 1892 and now

compete from Ohio River points and sections of the country other than New York, Philadelphia, etc., in transportation to Atlanta of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. The lines that competed in 1892 and that now compete for business from miscellaneous territory, other than New York, Philadelphia, etc., are:

The Cincinnati, New Orleans and Texas Pacific Railway, in connection with the Western and Atlantic Railroad.

The Southern Railway, or the Chattanooga, Rome and Columbus Railroad.

The Louisville and Nashville Railroad, in connection with the Nashville, Chattanooga and St. Louis Railway and the Western and Atlantic Railroad.

The Illinois Central and the Ohio Valley Railroad, in connection with the Memphis and Charleston and the Kansas City, Memphis and Birmingham Railroad and their connections.

The Western and Atlantic Railroad.

The Southern Railway and the Central Railroad of Georgia.

The Mobile and Ohio Railroad, in connection with the Mem-
231 phis and Charleston Railroad or the Kansas City, Memphis and Birmingham Railroad and their connections.

The Southern Railroad from Winona, in connection with the Memphis and Charleston or the Kansas City, Memphis and Birmingham Railroad and their connections.

The Southern Railway from Winona, Mississippi, to the point of connection with the Illinois Central Railroad.

From West Point, Mississippi, to the point of connection with the Mobile and Ohio Railroad.

The Western Railway of Alabama and the Atlanta and West Point Railroad from Opelika, Alabama, to the point of connection with the Central of Georgia Railroad.

The St. Louis, Alton and Terre Haute Railroad.

The Alabama and Vicksburg.

The Missouri Pacific.

The New Orleans of Northeastern.

The Alabama Great Southern and the Mobile and Ohio Railroad.

7. Q. State whether or not the Atlanta and West Point Railroad and the Western Railway of Alabama and their connections actually and actively compete for the carriage of freight of the said various classes to Atlanta; and if so, to what cities.

A. The Atlanta and West Point Railroad and the Western Railway of Alabama and their connections actively and actually compete for the carriage of freight of the various kinds to Atlanta from Birmingham, Alabama; Memphis, Tennessee; Kansas City, Missouri, and all points west and south thereof, including Mobile, Alabama; New Orleans, Louisiana; and all Texas, Mexico, and California points. And they also compete for Columbus, Macon, and Savannah, and other towns in Georgia and Florida south thereof, as well as from Northeastern cities by steamship through the port of Savannah.

8. Q. Do said railroads or their connections have agents at said cities to solicit said freight for transportation to Atlanta?

A. The Atlanta and West Point Railroad and the Western Railway of Alabama or their connections have agents at said ports at which we compete for traffic to Atlanta who solicit freight for transportation.

9. Q. Do said railroads or their agents advertise at said cities for transportation of said freight to Atlanta?

A. The Atlanta and West Point Railroad and the Western Railway of Alabama and their connections do advertise at said points of competition for transportation of freight to Atlanta, Georgia.

232 10. Q. State whether the rates of freight on the various classes from New York, Philadelphia, etc., to Atlanta are controlled to any, and if so to what, extent by competition.

A. Atlanta is the interior point doing the largest buisnes as well as being the geographical center of the Southeastern territory, and the extent of competition from every section of the country necessarily influences in a great degree the making of rates from New York, Philadelphia, etc.

11. Q. State whether there is any such competition at Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain as is sufficient to overcome the rates charged by the lines from New York, Philadelphia, etc., via Charleston and Augusta to those stations.

A. There is no competition at Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain that would interfere with the rates adopted by the direct lines from New York, Philadelphia, etc., via Charleston and Augusta.

12. Q. State whether or not competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. Competition between carriers has always been recognized as a factor in determining rates, its importance varying with the degree and nature of the competition. The simple fact that two roads pass through the same point does not necessarily make rates to that point different from what they would be if situated only on one line. This is particularly the case where two roads are really not in actual competition, as the terminal drawing business from different sections. Water competition is an important factor in the adjustment of rates and invariably has the effect of making them low on account of the exceeding cheapness with which water lines can carry freight.

13. Q. Were the Clyde Steamship Company and what was formerly known as the South Carolina Railway Company and the Georgia Railroad and Banking Company and the Louisville and Nashville Railroad and the Central Railroad and Banking Company of Georgia under any common control or management in 1892, or have they been since that time?

A. To the best of my knowledge and belief, the Clyde Steamship Lines and what was formerly known as the South Carolina Railroad Company and the Georgia Railroad and Banking Company, the Louisville and Nashville Railroad, the Central Railroad and Banking Company of Georgia, were not under any common control or management in 1892, nor have they been since that time.

233 14. Q. Explain the basis of making rates from Boston, New York, Philadelphia, and Baltimore to Atlanta. Are the rates which are fixed by the Georgia railroad commissioners from the Georgia seacoast to Atlanta taken into consideration?

A. The rates from the east to Atlanta were agreed to in August, 1882, on the basis of certain rates from New York to South Atlantic coast points, which were practically the local rates of the steamship lines, to which were added the published rates from the South Atlantic ports to Atlanta. The rates from the South Atlantic ports were made with reference to the rates required by the Georgia railroad commission from Savannah to Atlanta. The railroad commission rate' were not adhered to in every instance, as the figures in connection with the steamship arbitraries did not make what was considered a proper allignment of the through rates, the Georgia commission rates, however, being carefully observed as a maximum; the rates from Boston and Philadelphia were made the same as from New York, while from Baltimore they were made a differential less.

15. Q. State whether the rates which have been and can be made by the trunk lines from Cincinnati to Baltimore and other Eastern cities, and thence by steamships or sailing vessels, thence by the Georgia railroads to Atlanta, control the rates which can be charged by the direct rail lines operating from Cincinnati to Atlanta.

A. The rates that have been and can be made by the trunk lines from Cincinnati to Baltimore, and steamship or sail vessels in connection with the Georgia roads to Atlanta, unquestionably influence the adjustment of rates and so control them to the extent that the direct lines could not afford to make the rates high' than at present, as to do so would enable the circuitous route to compete for the business at a profit.

16. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. No, sir.

Cross-examination by Mr. SHAVER:

1. Q. In answering the questions propounded to you on your direct examination, you read from a manuscript. How long since is it that you prepared those answers?

A. About one month.

234 2. Q. You had been furnished with the interrogatories previously?

A. Yes, sir.

3. Q. Might not reductions in rates which would not appreciably benefit an individual consumer be of great benefit to the merchant dealing with a large number of consumers?

A. Well, I hardly think it would. As I said before, in some cases it might and in others it might not, and then it would not on some classes and on others it would. It might be a benefit on a few of the lower classes and special commodity rates, but certainly not on the first six numbered classes.

4. Q. If the rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain from New York and other Eastern cities were so reduced as to make them not higher than the rates through those intermediate points to Atlanta, would not such reductions, in your opinion, be material reductions?

A. Of course it would be some reduction, as a matter of course, but it would not mater'ally affect the business at those several points between Augusta and Atlanta. Neither would it increase the business nor would it have any effect on increasing the business at those points.

5. Q. In the event that the merchants at Atlanta sell goods at Madison, Social Circle, Covington, Conyers, and Stone Mountain, and in the territory adjacent in competition with local merchants at those intermediate points, would not reductions in rates to those points which will make them not higher than the rates to Atlanta be of great benefit to the local merchants at those intermediate points in that competition?

A. In my opinion, it would be of little or no benefit to them. They might possibly on some of the lower classes and commodity rates—they might possibly be able, with the reduction, to compete with the Atlanta merchants, but the advantage the Atlanta merchants might have in handling large quantities of commodities, even at the same rate, in my opinion, would be able to still hold that trade in that section of the country.

7. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at that point?

A. I can not say that it would. In some cases it might, and in many cases it might not.

8. Q. Is not the natural tendency of a material reduction in rates to a given point towards the encouragement of the investment of capital at that point and the increase of its population?

235 A. Not in all cases.

9. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates preferential to one of those localities and discriminatory against the other benefit the one and injure the other?

A. There is no question but that is correct—that it does.

10. Q. You stated in your direct examination that in your opinion the rates from New York and other northeastern cities to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain were just and reasonable in and of themselves. Is that your opinion also as to the lower rates for the longer hauls through those intermediate points to Atlanta.

A. Yes, sir.

11. Q. Do those rates to Atlanta yield the carrier a revenue in excess of the cost of the service of transportation?

A. I should think they would, and I think they do.

12. Q. Is a rate reasonable in and of itself which does not yield the carrier a proper remuneration over and above the cost of the service of carriage?

A. No, I would not consider it a reasonable rate if it did not yield the carrier sufficient revenue over and above the cost of transportation.

13. Q Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost of the expense of the service of carriage?

A. That would be the only means we would have of knowing or trying to approximate as to about what the cost—that is, trying to find out the

cost as near as you can of carrying a ton of freight a mile or anything in excess of that—quite a number of things you have to take into consideration in saying whether that would be a profitable rate or not. For instance, you might at certain seasons of the year haul certain freight on certain trains that had to move anyhow whether they had one car or whether they had twenty. In that case you could probably move a car of freight or a ton of freight at much less expense than you could had you to provide special service, or if it were at other times of the year. There are times when we accept certain freights that we would not accept at other times. I will take the local freight, for instance, that will run between Atlanta and West Point. That train has got to run; we have got to pay the engineer, and we have got to pay the crew; and by adding on probably one or two more cars, or something of that kind, it probably would not add to the cost of the train but very little more. Now
236 if we had to go to work to perform a certain service for a certain class of low freight we often could not afford to haul it; we turn down lots of it.

14. Q. The transportation of the hindmost car would cost the road as much for transporting it the same distance as it cost for the foremost car?

A. That would not always be the case, for the very reason that the foremost car would not be switching back and forth as much, being attached to the engine, and the wear and tear of that car, and the cost of repairs to that car, and the accidents to that car would not be as great as the hindmost car that was constantly being switched from the point of shipment to the final destination. Going into the switch so often might cause a drawframe to be pulled out, or a brake being broken, or something of that kind, and even if no accident happened to the car there is obliged to be more wear and tear on that car.

15. Q. Does not the cost or the expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. Yes, sir.

16. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Yes, sir.

17. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. Yes, sir.

18. Q. Other things being equal, is not the wear and tear on locomotives, cars, track, and roadbed, etc., greater the greater the length of the haul?

A. Yes, sir.

19. Q. Other things being equal, is not the cost of keeping the road in repair or good condition greater the greater the length of the road?

A. Yes, sir.

20. Q. Other things being equal, does it not require more locomotives and cars and crews for running a train on a long road than on a short one?

A. Yes, sir.

21 Q. Other things being equal, does not distance add to the cost of building a road, and are not, therefore, the fixed charges, such as interest on the capital, greater the greater the length of the road?

A. Yes, sir.

22. Q. Is not the expense to the carrier on strictly local hauls greater per ton per mile than on long through hauls?

A. Yes, sir.

237 23. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and the Ohio River?

A. Nearly 25 years.

24. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory except in cases of competition in transportation to the longer-distance point?

A. No, sir.

25. Q. Is not a rate under which traffic will move and which is not so high as to divert the traffic to other roads and lines, in your opinion, a reasonable rate?

A. Yes, sir.

26. Q. In your direct examination you named a number of lines that could be formed to Atlanta and which you stated compete for business to Atlanta. Can not all these lines be also formed to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain by combination with the Georgia Railroad as the terminal carrier?

A. Yes, sir; I think so.

27. Q. Is not traffic transported from New York and other Northeastern cities over the line involved in this case to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain under through rates?

A. Yes, sir; I believe they are.

28. Q. Is not such traffic transported to those points under through bills of lading issued by the initial carrier at New York or other Northeastern cities?

A. Yes, sir.

29. Q. Are not those rates published rates?

A. I can not answer for certain, but I think they are; and it is customary to publish a through line of rates from Eastern cities, more so than it is from Western cities.

30. Q. You spoke of agents of the road soliciting business at New York and other Northeastern cities to Atlanta?

A. Yes, sir.

31. Q. Do they not also solicit business to intermediate points—Greensboro, etc.?

A. Not as actively as they do to Atlanta. Competition is not as great at those points. They might, up to certain junction points.

32. Q. They solicit business, do they not, to any points on their roads?

A. Oh, yes; all points.

238 33. Q. Are not the rates by all the lines from New York and other Northeastern cities to Atlanta the same?

A. The same by the all-rail lines and the same by the rail and water lines. They are not the same by rail and water.

34. Q. Would higher rates be charged to Atlanta but for competition?

A. I think so.

35. Q. Are not the rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain combinations of through and local rates?

A. That is my understanding, that they are made on that basis.

36. Q. Are they not combinations of the through rates to Augusta or Atlanta, as the case may be, plus the local rates from those points on to the intermediate local stations?

A. I am not exactly positive on that point, but I think they are made either on the basis of the rates to Augusta or Atlanta plus the locals back. I do not think there are any intermediate junction points for them to base on. If there are, I do not know, but it is possible there may be. I do not think there is.

37. Q. Does the Georgia railroad commission undertake to prescribe or regulate through rates on interstate commerce or any proportion of such rates?

A. No, sir.

38. Q. Are not the rates from Atlanta to Stone Mountain, Conyers, Covington, Social Circle, Madison, and Greensboro local rates?

A. I believe they are, of the Georgia Railroad.

39. Q. Are not the rates from Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain also local rates?

A. I think they are.

40. Q. If the rule that a greater charge for the shorter than the longer haul over the same lines, in the same direction, the shorter haul being included in the longer, were observed by all the roads or lines from a given point to a given point, would it be necessary for any one of those roads or lines to depart from this rule, in order to retain its share of the traffic and prevent diversion of its traffic to other roads or lines?

A. No, sir.

Redirect examination by Mr. BAXTER:

1. Q. Is it practicable for the lines from New York via Charleston, Augusta, and Atlanta to charge as high rates from New York and
239 other Eastern cities to Atlanta as are charged from New York and other Eastern cities to local stations on the Georgia Railroad between Augusta and Atlanta?

A. I do not think it is practicable or possible.

NASHVILLE, TENNESSEE, *July 17, 1897.*

W. A. WINBURN, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupations.

A. W. A. Winburn; age, 37; residence, Savannah, Ga.; occupation, general freight agent of the Central of Georgia Railway Company.

2. Q. How long have you been connected with the railroad freight transportation business in the United States, and in what capacities?

A. Since 1881; as clerk in the local freight office, clerk in the assistant general freight office, division freight and passenger agent, and general freight agent, respectively.

3. Q. In this case the Interstate Commerce Commission ordered the

defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, &c., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Convers, and Stone Mountain more than to Atlanta. The rates from New York, Philadelphia, &c., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Convers, Stone Mountain, and Atlanta were, as shown by the report and opinion of the Commission in 1892, as follows:

	Classes.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	64	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	44	43	69	87	86
Convers	138	119	105	86	74	59	47	59	44½	43	70	85	87½
Stone Mountain	132	114	101	85	71	56	45	57	47	44	69	80	89½
Atlanta	114	98	86	78	60	49	36	48	40	39	58	68	78

240 State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social Circle, Covington, Convers, and Stone Mountain, so as to make up for any loss of revenue that would otherwise result. Give your reasons for any opinion you may express.

A. I do not think the reduction in the rates from Eastern cities to Greensboro and other local stations on the Georgia Railroad, making them the same as the rates to Atlanta, would result in any material increase in shipments to those points, because there is not a sufficient trade at and contiguous to these stations in the character of the traffic shipped from the East to justify the stablishment of wholesale or large retail stores such as now deal in these goods at Atlanta.

4. Q. State whether said rates from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Convers, and Stone Mountain are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. I consider them reasonable. First, because they are not higher than to points on other roads in the same sections, similarly situated. Second, because they are not higher than the rates established by competition to Augusta, Athens, Atlanta, or Macon, or Milledgeville, plus the local rates prescribed by the Georgia Railroad Commission from those points?

5. Q. State what lines actually and actively competed in 1892, and now compete from New York, Philadelphia, etc., in transportation to Atlanta, Georgia, of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. The Southern Railway.
The Georgia Railroad.
The Seaboard Air Line.
The Central of Georgia Railway.
The Clyde Steamship Company.
The Old Dominion Steamship Company.
The Ocean Steamship Company.
The Merchants and Miners' Transportation Company.
The Mallory Steamship Line.

The Atlantic Coast Line.
The Norfolk and Western Railroad.
The South Carolina and Georgia Railroad.
The Pennsylvania Railroad.
The Charleston and Western Carolina Railroad.

6. Q. State what lines actually and actively competed in 1892, and now compete from Ohio River points and sections of the country
241 other than New York, Philadelphia, etc., in transportation to Atlanta of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. From Ohio and Mississippi River points.
The Louisville and Nashville Railroad.
The Nashville, Chattanooga and St. Louis Railroad.
The Western and Atlantic Railroad.
The Southern Railway.
The Cincinnati, New Orleans and Texas Pacific Railroad.
The Illinois Central Railroad.
The Kansas City, Memphis and Birmingham Railroad.
The Memphis and Charleston Railroad.
The Norfolk and Western Railroad.
The New Orleans and Northeastern Railroad.
The Atlanta and West Point Railroad.
The Western Railway of Alabama.
The Mobile and Birmingham Railroad.
The Alabama Great Southern Railroad.
The Mobile and Ohio Railroad.

7. Q. State whether or not your railroad, the Central of Georgia Railway, and its connections, actually and actively compete for the carriage of freight of the said various classes to Atlanta. If so, from what cities?

A. It competes from all Eastern cities, but not from Ohio or Mississippi River crossings.

8. Q. Does your railroad or its connections have agents at said cities to solicit said freight for transportation to Atlanta?

A. It maintains agencies at Boston, New York, Philadelphia, and Baltimore, and actively solicits business from the Atlantic seaboard and the interior Eastern territory to Atlanta. It also maintains agencies at Cincinnati, St. Louis, Kansas City, Memphis, New Orleans, and Nashville, but they do not actively solicit business to Atlanta.

9. Q. Does your railroad or its connections advertise in New York, Philadelphia, Baltimore, and other Eastern cities for transportation of said freight to Atlanta?

A. Yes, sir.

10. Q. State whether the rate on freight of the various classes from New York, Philadelphia, etc., to Atlanta are controlled by any, and if so to what, extent by competition.

A. The rates from Boston, New York, Philadelphia, and Baltimore to Atlanta are controlled largely by competition between the various Eastern carriers; also by competition with the carriers serving the Western markets.

11. Q. State whether competition between carriers, whether by
242 rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted.

A. Continually depresses the rates of transportation.

12. Q. Were the Clyde Steamship Company and what was formerly known as the South Carolina Railway Company, and the Georgia Railway and Banking Company, and the Louisville and Nashville Railroad, and the Central Railroad and Banking Company of Georgia, under common control or management in 1892, or have they been since that time?

A. Not so far as I know.

13. Q. Explain the basis of making rates from New York, Philadelphia, etc., to Atlanta. Are the rates fixed by the Georgia railroad commission from the Georgia seacoast to Atlanta taken into consideration?

A. That is a difficult question to answer. The rates now in effect are substantially those in effect when I first became familiar with the Atlanta traffic. But in a general way they are the outgrowth of compromise agreement between the Eastern carriers and between the carriers from the East and the carriers from the West.

They are in many cases affected by the rates of the Georgia railroad commission from the ports of Savannah and Brunswick, and also to some extent by the rates so prescribed from Augusta.

14. Q. Do you know or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. I do not think of anything else.

Cross-examination by Mr. SHAVER:

1. Q. I notice that in answering the direct interrogatories propounded to you, you read from a manuscript you have before you. How long ago did you prepare your answers?

A. On June 17th.

2. Q. Had you been furnished with the interrogatories prior to that time?

A. Yes, sir; on June 9th.

3. Q. Do not Atlanta merchants trade or sell goods at Stone Mountain, Conyers, Covington, Social Circle, Madison, and Greensboro and in adjacent territory in competition with local merchants at those points?

A. I think they sell only in competition with the more pros-
243 perous farmers, but to the merchants also. I should say that the bulk of their trade with the people in that section was with the merchants.

4. Q. Would not a reduction of the rate to Stone Mountain, Conyers, Covington, Social Circle, Madison, and Greensboro from New York and other Northeastern cities so as to make the rates to those points not higher than the rates for the longer haul through them to Atlanta benefit the local merchants at those points in their competition with Atlanta merchants?

A. Yes, sir. A reduction in the rates to Stone Mountain, Greensboro, etc., from the East would be a benefit to those merchants located at those points who have sufficient credit to be able to purchase at Eastern cities in competition with the merchants of Atlanta. It would be no benefit, but a disadvantage, to those who, by reason of their limited means or indifferent credit, had to continue to make their purchases at Atlanta.

5. Q. Where two localities so situated with reference to each other that they compete for business in the same territory does not a system of rates that is preferential to one of those localities and discriminatory against the other benefit the one and injure the other?

A. All of the conditions being the same, I should say they would, unquestionably.

6. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at that point?

A. Not necessarily, I think.

7. Q. Is not the natural tendency of a material reduction in rates to a given point towards the encouragement of the investment of capital at such point and the increase of its population?

A. It would be on raw material into a point where it is proposed to manufacture goods, and also true of manufactured products from such points. I do not think that a reduction in dry goods to a point such as is described above, use that as an illustration—taking either one of these points as an illustration—I do not think that a reduction in the rates on dry goods or on soap or on sugar would increase the consumption of those articles at those points in any degree at all. I do not believe it would bring about immigration or removal of parties from other sections to these points.

8. Q. Do not transportation rates enter into and affect the price of goods?

A. Yes, sir; generally.

244 9. Q. Do not lower rates therefore tend to bring about lower prices of goods?

A. On heavy commodities where prices are close a small difference in freight rates would affect the selling price, but in dry goods or boots or shoes, or other traffic of that class, I do not think that a material difference in rates of freight would cause a variation in the selling price. I do not believe if a man were paying $1 a hundred pounds on boots and shoes to a given point and sold his shoes at $1.25 a pair that if his rates were reduced to 85 cents he would sell those shoes for less than $1.25.

10. Q. Might not the reduction in rates, which would not appreciably benefit an individual consumer, be of great benefit to the merchants who sells goods to a large number of consumers?

A. The seller would undoubtedly put an additional profit in his pocket.

11. Q. Does not the prosperity of a locality generally depend to a very great extent upon the prosperity of its merchants and business men?

A. I should say so.

12. Q. Is not the tendency of lower prices of goods to bring those goods within the reach of a greater number of people and thus increase the consumption of such goods?

A. I do not think that is always the rule by any means.

13. Q. Is it true as a general rule?

A. I think not; I think it is exceptional.

14. Q. Do not people lay in supplies in proportion to their means?

A. That depends a good deal on the individual.

15. Q. Is not a rate under which traffic will move and which is not so high as to divert the traffic to other roads or lines in your opinion a reasonable rate?

A. Yes, sir.

16. Q. Are the rates from New York and other Northeastern cities involved in this case to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain in your opinion reasonable in and of themselves?

A. Yes, sir; I consider them reasonable in and of themselves.

17. Q. Do you also consider the rates from New York for the haul through those intermediate points to Atlanta just and reasonable in and of themselves?

A. Yes, sir.

18. Q. Is a rate in your opinion a reasonable rate which does not give the carrier a proper remuneration over and above the cost of the service of carriage?

245 A. That depends on what we call a proper remuneration above the cost of carriage. It seems to me there are a great many cases where a rate would be reasonable if it was above the cost of carriage to any extent, dependent largely on the movement of traffic in different directions.

19. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first ascertaining the cost or the expense of the service of carriage?

A. The cost of the carriage is an uncertain quantity, varying almost with every class of freight, and varying on the same classes of freight at different times and moving in different directions.

20. Q. I understand that, but that is not an answer to my question. My question is, can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost or the expense of the service of carriage? In other words, can it be ascertained whether a rate pays the carrier a profit without first considering the expense or the cost of the carriage?

A. As it is impossible to ascertain the cost of carriage in a great majority of cases, it is difficult to tell whether any particular rate or any particular traffic will pay a profit. We have as a guide the general tariffs. We know what the outturn is from those tariffs, and we vary from them as necessity requires, and after all when you come down to rate making on heavy commodities, which require low rates of transportation, it is largely a rule-of-thumb process. By observation and experience we ought to know and try to know whether we will make or lose money on any shipment. If we think we are not going to make money, we will not take it. If we think it pays, we will take it. Whether we always make a profit we do not know.

21. Q. In your opinion, then, is *that* it *is* impossible for the carrier to ascertain whether a given rate is reasonably remunerative?

A. My answer had reference particularly to exceptionally low rates—that is, rates lower than the general standard of rates. In cases of this kind I think it is frequently impossible to tell whether we will make or lose money by the carriage.

22. Q. Does not the cost or the expense of the service of transportation depend largely or the length of the haul?

A. All other things being equal, I would say that the cost of the haul per mile would decrease as the length of the haul increased. Not in any given rate, but to some extent, at least.

23. Q. Would not the aggregate cost increase as the length of the haul increased, other things being equal?

A. All other things being equal; yes, sir.

246 24. Q. All other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Yes, sir.

25. Q. All other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. I do not know much about the consumption of fuel. I would not like to give an expert opinion as to that, as I do not handle any fuel.

26. Q. All other things being equal, is not the wear and tear on locomotives, cars, track, roadbed, &c., greater the greater the length of the haul?

A. I think so.

27. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater the greater the length of the road?

A. Of that I know nothing about at all.

28. Q. Other things being equal, does it not require more locomotives and crews for the running of trains on a long road than on a short one?

A. I think that depends a great deal upon how much longer the long road is than the short road.

29. Q. Other things being equal, does not distance add to the cost of building a road, and are not, therefore, the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. Yes, sir.

30. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and the Ohio rivers?

A. Sixteen years.

31. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory, except in cases of competition in transportation to the longer distance points?

A. I can think of no such case at present.

32. Q. In your direct examination you named a number of lines from New York to Atlanta, which you stated competed for business between those points. Can not all those lines be also formed to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain by combination with the Georgia Railroad as the terminal carrier with the consent of all the road members of those lines?

A. I think so.

247 33. Q. Are there not other roads to Social Circle and Madison than the Georgia Railroad?

A. The Central of Georgia Railway crosses the Georgia Railroad at Madison. The Gainesville, Jefferson and Southern Railroad touches the Georgia Railroad at Social Circle, but the Georgia Railroad, I believe, have, until the last few months, operated this road.

34. Q. Is not traffic transported from New York to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain under through bills of lading issued by the initial carrier at New York or other Eastern cities?

A. Yes, sir.

35. Q. Do not said bills of lading name aggregate through rates to those intermediate points?

A. Yes, sir.

36. Q. You stated, I think, that you had agents for the solicitation of traffic to Atlanta. Do not those agents also solicit traffic to all points on your road besides Atlanta to which through rates are named?

A. Yes, sir.

37. Q. Are not the rates to Madison, Greensboro, Covington, Social Circle, Conyers, and Stone Mountain from New York and other Northeastern cities made up of the through rates to either Augusta or Atlanta plus the local rates back to or on to those points, as the case may be?

A. That is my understanding.

38. Q. Are not the rates from Atlanta, Stone Mountain, Covington, Conyers, Social Circle, Madison, and Greensboro local rates?

A. I believe so.

39. Q. Are not the rates from Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain local rates?

A. I believe so.

40. Q. Is not the expense to the carrier per ton per mile on local hauls greater than on long through hauls?

A. I do not know.

41. Q. If the rule that there shall be no greater charge for a shorter than a longer haul over the same line in the same direction, the shorter haul being included in the longer, were observed by all the roads or lines from New York or Northeastern cities to Atlanta, and the rates by all those lines to Atlanta were the same, would it be necessary for any one of those roads or lines to depart from this rule in order to retain its share of the traffic and prevent diversion of its traffic to other roads or lines?

248 A. Not if it was practicable to make the rates to Atlanta as high as the rate to any intermediate point on any of the routes competing for Atlanta business.

42. Q. If the rates by all the lines between the points named were as high as the intermediate rates by any line, and the rates by all the lines were the same, would that result in any diversion of traffic from one line to another?

A. Such an adjustment of rates would contemplate the relative advance of the rates via the Mallory line, therefore that line would lose a share of the traffic which it now enjoys to Atlanta. I think the other lines, it seems to me, would be on the same comparative footing if it did not divert any of the traffic from the East to Atlanta. That is, if by reason of the advance in the rates to Atlanta traffic which Atlanta now enjoys was not diverted to Macon, or Augusta, or other points with which we now come in competition.

Redirect examination by Mr. BAXTER:

1. Q. Is it practicable to maintain rates from New York and other Northeastern cities via Augusta to Atlanta as high as the rates which are now charged from New York and other Northeastern cities via Augusta

to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain?

A. I do not believe it is. It could not be done without the consent of all the carriers and I do not believe that could be obtained.

Recross-examination by Mr. SHAVER:

1. Q. It would be practicable with their consent, would it not?

A. I think so.

Re-redirect examination by Mr. BAXTER:

1. Q. Would not the rates by tramp steamers and sailing vessels to Savannah, with the rate by river from Savannah to Augusta, plus the rates fixed by the Georgia railroad commission from Augusta to Atlanta, aggregate less than the rate now charged from New York to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain?

A. That would depend, it seems to me, largely on the amount of that traffic which would bear slow transportation. The traffic which moved principally from the East is a high class of traffic and might or might not furnish sufficient volume to warrant the employment of sailing vessels.

249 2. Q. What prevents all of the lines operating from New York and other Eastern cities to Atlanta getting together, and if not by agreement, at least by concert, charge as high rates to Atlanta as are charged from New York and other Northeastern cities to local stations on the Georgia Railroad between Augusta and Atlanta?

A. The rates that are now charged are substantially those which were charged ten or fifteen years ago, before the creation of the Georgia railroad commission, and were made, I presume, by the lines then competing for the business and considered by them just and reasonable. There has always been and probably will continue to be a division of opinion as to whether or not a materially higher rate to Atlanta would be in and of itself unfair.

NASHVILLE, TENNESSEE, *July 19, 1897.*

GEORGE R. KNOX, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. George R. Knox; 52; general freight agent Nashville, Chattanooga and St. Louis Railway; Nashville, Tenn.

2. Q. How long have you been connected with the railroad freight transportation business in the United States, and in what capacities?

A. I was in the local freight office and in the accounting department for some time before entering the general freight agent's office of the Nashville, Chattanooga and St. Louis Railway. I have been in the general freight office since March, 1867, and as subordinate clerk, chief clerk, assistant general freight agent, and general freight agent.

3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, &c., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone

Mountain more than to Atlanta. The rates from New York, Philadelphia, &c., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain, and Atlanta were as shown by the report and opinion of the Commission, in 1892, as follows:

250

	Classes.											
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	54	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	142	122	108	91	73	58	48	60	44	43	69	87	86
Conyers	138	119	105	90	74	59	47	59	44½	43	70	85	87½
Stone Mountain	132	114	101	85	71	58	45	57	47	44	69	80	89½
Atlanta	114	98	86	78	60	49	36	48	40	39	58	68	78

State what, in your opinion, would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain so as to make up for any loss of revenue that might otherwise result. Give your reasons for any opinion you may express.

A. In my opinion, if the rates to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, Ga., were reduced to the same as Atlanta, it would simply result in a loss of revenue of the freight handled to the extent of such reductions, as the volume of business would not be materially increased on account of such reductions for the reason that these points are what might be termed consumptive points and do very little, if any, jobbing or distributing business.

4. Q. State whether said rates from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain, are just or unjust, reasonable or unreasonable, and give your reasons for any opinion you may express.

A. Yes, sir; I consider the rates from New York, Philadelphia, etc., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain just and reasonable for the reason that they do not allow the carriers excessive revenue for the service performed. Furthermore, they compare favorably with other rates for similar distances and services. These points do receive the benefit of competition up to Atlanta.

5. Q. State what lines actually and actively competed in 1892
251 and now compete from New York, Philadelphia, etc., in transportation to Atlanta, Ga., of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. These lines are as follows:

Route No. 1: The Ocean Steamship Company to Savannah, 250 miles; the Central of Georgia Railway to Atlanta, 294 miles.

Route No. 2: The Clyde Steamship Line to Charleston, 250 miles; the South Carolina & Georgia Railroad to Augusta, 138 miles; the Georgia Railroad to Atlanta, 171 miles.

Route No. 3: The Ocean Steamship Company to Savannah, 250 miles; the Plant Line to Jesup, 57 miles; the Southern Railway to Atlanta, 287 [or 237] miles.

Route No. 4: The Old Dominion Steamship Company to Norfolk, 160

miles; the Norfolk & Western Railroad to Bristol, 408 miles; the Southern Railway to Atlanta.

Route No. 5: The Old Dominion Steamship Company to Norfolk, 160 miles; the Norfolk & Western Railroad Company to Bristol, 400 miles; the Southern Railway to Chattanooga, 242 miles; the Western & Atlantic Railroad to Atlanta, 138 miles.

Route No. 6: The Old Dominion Steamship Company to Portsmouth, 160 miles; the Seaboard Air Line to Atlanta, 595 miles.

Route No. 7: The Old Dominion Steamship Company to Norfolk, 160 miles; the Southern Railway to Chattanooga, 626 miles; the Western & Atlantic Railroad to Atlanta, 138 miles.

Route No. 8: The Old Dominion Steamship Company to Norfolk, 160 miles; the Southern Railway to Atlanta, 595 miles.

Route No. 9: The Old Dominion Steamship Company to Pin-
252 ners Point, 160 miles; the Atlantic Coast Line to Denmark, 390 miles; the South Carolina & Georgia Railroad to Augusta, 57 miles; the Georgia Railroad to Atlanta, 171 miles.

Route No. 10: The Lehigh Valley Railroad to Allentown, 93 miles; the Philadelphia & Reading Railroad to Shippersburg, 131 miles; the Western Maryland Railroad to Hagerstown, 46 miles; the Norfolk & Western Railroad to Bristol, 390 miles; the Southern Railway to Chattanooga, 242 miles; the Western & Atlantic Railroad to Atlanta, 138 miles.

Route No. 11: The Central Railroad of New Jersey to Allentown, 90 miles; the Philadelphia & Reading Railroad to Shippersburg, 131 miles; the Western Maryland Railroad to Hagerstown, 46 miles; the Norfolk & Western Railroad to Bristol, 390 miles; the Southern Railway to Chattanooga, 242 miles; the Western & Atlantic Railroad to Atlanta, 138 miles.

Route No. 12: The Pennsylvania Railroad to Harrisburg, 195 miles; the Cumberland Valley Railroad to Hagerstown, 74 miles; the Norfolk & Western Railroad to Bristol, 390 miles; the Southern Railway to Chattanooga, 242 miles; the Western & Atlantic Railroad to Atlanta, 151 miles.

Route No. 13: The Pennsylvania Railroad to Alexandria, 237 miles; the Southern Railway to Chattanooga, 710 miles; the Western & Atlantic Railroad to Atlanta, 138 miles.

Route No. 14: The Pennsylvania Railroad to Delmar, 215 miles; the New York, Philadelphia & Norfolk Railroad to Pinners Point, 131 miles; the Atlantic Coast Line to Denmark, 390 miles; the South Carolina & Georgia Railroad to Augusta, 57 miles; the Georgia Railroad to Atlanta, 171 miles.

Route No. 15: The Central Railroad of New Jersey to Bound Brook, 31 miles; the Philadelphia & Reading Railroad to Philadelphia, 60 miles; the Baltimore & Ohio Railroad to Alexandria, 144 miles; the
253 Southern Railway to Chattanooga, 710 miles; the Western & Atlantic Railroad to Atlanta, 151 miles.

Route No. 16: The Pennsylvania Railroad to Delmar, 215 miles; the New York, Philadelphia & Norfolk Railroad to Portsmouth, 131 miles; the Seaboard Air Line to Atlanta, 595 miles.

Route No. 17: The Mallory Steamship Line to Brunswick; the Southern Railway to Atlanta.

Route No. 18: The Mallory Steamship Line to Brunswick; the Plant System to Albany; the Central of Georgia Railway to Atlanta, 131.

6. Q. State what lines actually and actively competed in 1892 and now compete from Ohio River points and sections of the country other than New York, Philadelphia, etc., in transportation to Atlanta of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F?

A. All lines west of Pittsburg leading southwardly competing for the transportation of freight to Atlanta from points other than New York, Philadelphia, etc.

Those competing south of the Ohio River are as follows:

From Cincinnati, O.

Route No. 1: The Cincinnati Southern Railway to Chattanooga; the Western & Atlanta Railroad or the Southern Railway to Atlanta.

Route No. 2: The Louisville & Nashville Railroad to Nashville; the Nashville, Chattanooga & St. Louis Railway to Chattanooga; the Western & Atlantic Railroad or the Southern Railway to Atlanta.

Route No. 3: The Louisville and Nashville Railroad to Birmingham; the Georgia Pacific Railway to Atlanta.

Route No. 4: The Louisville & Nashville Railroad to Montgomery; the Western Railway of Alabama and the Atlanta and West Point Railroad to Atlanta.

254 Route No. 5: The Louisville & Nashville Railroad to Montgomery; the Central of Georgia Railway to Atlanta.

From Louisville, Kentucky.

Route No. 1: The Louisville Southern Railway to Burgin; the Cincinnati Southern Railway to Chattanooga; the Western & Atlantic Railroad or Southern Railway to Atlanta.

Route No. 2: The Louisville & Nashville Railroad to Nashville; the Nashville, Chattanooga & St. Louis Railway to Chattanooga; the Western & Atlantic Railroad or Southern Railway to Atlanta.

Route No. 3: The Louisville and Nashville Railroad to Birmingham; the Georgia Pacific Railway to Atlanta.

Route No. 4: The Louisville & Nashville Railroad to Montgomery; the Central of Georgia Railway to Atlanta.

Route No. 5: The Louisville & Nashville Railroad to Montgomery; the Western Railway of Alabama and the Atlanta and West Point Railroad to Atlanta.

From Evansville, Indiana.

Route No. 1: The Louisville & Nashville to Nashville; the Nashville Chattanooga & St. Louis Railway to Chattanooga; the Western and Atlantic Railroad or Southern Railway to Atlanta.

Route No. 2: The Louisville & Nashville Railroad to Birmingham; the Georgia Pacific Railway to Atlanta.

Route No. 3: The Louisville & Nashville Railroad to Montgomery; the Central of Georgia Railway to Atlanta.

Route No. 4: The Louisville & Nashville Railroad to Mont-
255 gomery; the Western Railway of Alabama and the Atlanta & West Point Railroad to Atlanta.

From Cairo, Illinois.

Route No. 1: The Illinois Central Railroad to Martin; the Nashville, Chattanooga & St. Louis Railway to Chattanooga; the Western & Atlantic Railroad or Southern Railway to Atlanta.

Route No. 2: The Illinois Central Railroad to Martin; the Nashville, Chattanooga & St. Louis Railway to Nashville; the Louisville & Nashville Railroad to Birmingham; the Georgia Pacific Railway to Atlanta.

Route No. 3: The Illinois Central Railroad to Martin; the Nashville, Chattanooga & St. Louis Railway to Nashville; the Louisville & Nashville Railroad to Montgomery; the Western Railway of Alabama and the Atlanta & West Point Railroad to Atlanta.

Route No. 4: The Illinois Central Railroad to Winona; the Georgia Pacific Railway to Atlanta.

Route No. 5: The Illinois Central Railroad to Holly Springs; the Kansas City, Memphis and Birmingham Railroad to Birmingham; the Georgia Pacific Railway to Atlanta.

Route No. 6: The Illinois Central Railroad to Martin; the Nashville, Chattanooga & St. Louis Railway to Nashville; the Louisville & Nashville Railroad to Montgomery; the Central of Georgia Railway to Atlanta.

Route No. 7: The Mobile & Ohio Railroad to Tupelo; the Kansas City, Memphis & Birmingham Railroad to Birmingham; the Georgia Pacific Railway to Atlanta.

Route No. 8: The Mobile and Ohio Railroad to Tupelo; the Kansas City, Memphis & Birmingham Railroad to Birmingham; the Central of Georgia Railway to Atlanta.

256 Route No. 9: The Mobile and Ohio Railroad to West Point; the Georgia Pacific Railway to Atlanta.

Route No. 10: The Mobile & Ohio Railroad to West Point; the Georgia Pacific Railway to Birmingham; the Central of Georgia Railway to Atlanta.

Route No. 11: The Mobile & Ohio Railroad to Lauderdale; the Southern Railway to Selma; the Western Railway of Alabama and the Atlanta and West Point Railroad to Atlanta.

Route No. 13: The Mobile & Ohio Railroad to Lauderdale; the Southern Railway to Selma; the Western Railway of Alabama and the Atlanta & West Point Railroad to Montgomery; the Central of Georgia Railway to Atlanta.

7. Q. State whether or not the Nashville, Chattanooga and St. Louis Railway and its connections actually and actively compete for the transportation of traffic of the various classes to Atlanta, and if so, from what cities.

A. Yes, sir; the Nashville, Chattanooga & St. Louis Railway and its connections compete for the transportation of all classes of freight to Atlanta. It competes from Ohio River points, Memphis, and points north of the Ohio and west of the Mississippi rivers.

8. Q. State whether said railways and their connections have agents at said cities to solicit said freight for transportation to Atlanta?

A. Yes, sir; the Nashville, Chattanooga and St. Louis Railway has agents at Memphis, Cairo, Paducah, Chicago, and Kansas City who actively solicit freight for transportation to Atlanta, and our friendly connections also have agents who solicit for the same traffic.

9. Q. State if said railway or its connections advertise at said cities for the transportation of said freight to Atlanta?

A. Yes, sir; the Nashville, Chattanooga and St. Louis Railway publishes tariffs showing rates from Memphis, Cairo, and Paducah, and our connections also publish through rates from other points.

10. Q. State whether the rates on the various classes from
257 New York, Philadelphia, etc., to Atlanta are controlled to any, and if so, to what, extent by competition.

A. Yes, sir; the rates from New York, Philadelphia, etc., to Atlanta are controlled by competition. There is a relative adjustment between Eastern cities on the one hand and Cincinnati and Ohio River points on the other, to Atlanta, Macon, Opelika, etc.

In addition to that, there is very strong competition among the various Eastern lines on traffic to Atlanta. Lines working south through Savannah, through Norfolk, and Portsmouth, as well as the all-rail lines from the East working through Hagerstown and Alexandria compete very vigorously for the traffic to Atlanta.

11. Q. State whether competition between carriers, whether by rail or by water, substantially affects the circumstances and conditions under which the transportation of freight is conducted?

A. Yes, sir; competition between carriers, whether by rail or by water, affects the circumstances under which the transportation is conducted.

12. Q. State whether there is any such competition at Greensboro, Madison, Social Circle, Covington, Conyers or Stone Mountain as is sufficient to affect the rates charged by the lines from New York, Philadelphia, etc., via Charleston and Augusta to those stations.

A. I do not consider that the same competition exists at Greensboro, Madison, Social Circle, Covington, Conyers or Stone Mountain as at Atlanta, but they do, however, have the benefit of the competition that exists up to Atlanta and also Augusta.

13. Q. State whether the number of tons carried one mile or the number of tons carried of freight earning revenue, or the average receipts per ton per mile, or the estimated cost of carrying one ton one mile, can be used, either singly or together, as a standard in railroad rate making, and give your reasons for any answer you may make.

A. No, sir; I do not consider that the freight receipts per ton per mile, or the estimated cost per ton per mile, or the number of tons carried one mile, or the estimated cost of carrying one ton one mile, can be used as a standard or basis for making of rates, for the following reasons:

(a) The local freight of a road is handled under entirely different circumstances and conditions from through or competitive freight.

(b) On competitive freight, as a rule, the value of transportation is fixed by the surroundings.

258 (c) There are certain fixed charges and expenses which have to be made whether the business is light or heavy.

(d) The freight receipts per ton per mile may show heavy on account of the class or character of the freight hauled; then, again, from the same reason, it may show light on account of the low class of freight.

Again, the volume of business, as well as the class of freight and how it averages up, necessarily changes the freight rates per ton per mile as well as the cost of transportation.

14. Q. Explain the basis of making rates from New York, Philadelphia, etc., to Atlanta. Are the rates which are fixed by the Georgia Railroad Commission from the Georgia seacoast taken into consideration?

A. Rates from the East are made by taking Augusta as the basis and the rates from Baltimore established in line with combinations through the ports. Then, Atlanta rates are made the following differentials above Augusta:

1	2	3	4	5	6	A	B	C	D	E	H	F
18	71	16	15	13	12	8	6	8	8	15	14	17

Of course, in establishing these rates the Georgia commission rates were taken into consideration also.

These differentials as between the different Southern cities on rates both from the East and from the West have been the outgrowth of a great many years conflict and contention between those various cities and the railroads serving those cities. At different times in years gone by commercial delegates from the various cities would meet the railroad people in joint convention and the matter would be fully discussed and then by a sort of general agreement between the commercial delegates from the various cities and the railroads serving those various cities, certain differentials were established and with some slight modification the differentials obtained in that manner are still in effect.

15. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject to this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. I think these questions have covered the ground quite fully.

Cross-examination by Mr. SHAVER:

259 1. Q. In the event that the Atlanta merchants sell goods at Stone Mountain, Conyers, Covington, Social Circle, Madison and Greensboro, and in the territory adjacent to those points, in competition with the local merchants of those points, would not a reduction in the rates from New York and other Northeastern cities to those points, so as to make their rates not higher than the Atlanta rates, greatly benefit the local merchants at those points in that competition?

A. If in adjusting rates, if that became necessary, Atlanta was made the same as the rates now in effect to those local points, then, of course, there would be no reduction to those points, but an advance to Atlanta, and the only benefit that I can see to the dealers at Stone Mountain, Conyers, Covington, etc., even in the event that Atlanta competes with them, which I do not understand to be the case—the only benefit, or the principal benefit, which would ensue to them would be the exclusion of Atlanta from that trade, because Atlanta, having first to pay the first rate to bring the goods in, and then having to pay the second rate out, which they would not pay at all selling in their own town, or a much less rate if sold at a near-by point, which would give them such advantage over the merchants of Atlanta that the Atlanta dealers would find they were driven out of competition.

2. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point toward improving and increasing the business at that point?

A. Frequently it does not have that effect. If the rates on flour, corn, hay, and hog products from the West to the Southeast were reduced one-half, I do not think it would have any material on the volume of traffic, nor do I think it would have any if the rates on cotton from the Southeast, the seaboard, or Eastern cities were cut in half, that it would materially affect the volume of that traffic.

3. Q. Which is more beneficial to the business of a locality, high rates or low rates?

A. It depends altogether on the conditions surrounding it. Low rates on agricultural products from the West have proven very injurious to Tennessee farmers. They would be benefited if those rates were made higher.

In my opinion the opening of many new Western lines and low rates made from the very fertile, low-priced fields of the West and Northwest have materially and permanently lowered the values of the farm lands throughout Tennessee.

4. Q. As a general rule, in the absence of exceptional conditions, which are more beneficial to a locality, high rates or low rates?

260 A. Sometimes one and sometimes the other. The manufacturer likes to have low rates to get out with his products. He likes to have high rates into his territory from other territory—into his section on the like character of goods.

5. Q. Do not rates of transportation enter into and affect the prices of goods sold by merchants?

A. On some classes the rate of freight does no doubt have a controlling influence on the price; on other classes it has very little to do with the price. Take, for instance, dry goods from New York to any of the Southeastern markets, or boots and shoes; if the rate of freight was cut half in two the probability is that the consumer would pay the same price for dry goods, would pay the same price for boots and shoes, as they do now?

6. Q. Would not the merchants be benefited?

A. The merchants' profits would be somewhat increased.

7. Q. Does not the general prosperity of a locality depend largely on the prosperity of its merchants and business men?

A. It does; and manufacturers, I would add, where it has them.

8. Q. Is not the natural tendency of a reduction in rates to a given point toward the investment of capital at such point and the increase of its population?

A. Yes, sir; that is, the reduction in rates to a point will encourage the investment of capital at that point.

9. Q. Is not that the natural tendency?

A. No, sir; frequently the reverse.

10. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point toward the encouragement of the investment of capital at such point and the increase of its population?

A. No general answer can be given. In each instance the other conditions and surroundings of the particular town in question would, n:

doubt, enter largely into the result. Low rates on raw material for manufacturing purposes to a given point are beneficial. But, as heretofore explained, low rates on manufactured goods to the same point, in competition with the local manufacturer, are injurious.

11. Q. Injurious to the local manufacturer?

A. Yes, sir; injurious to the local manufacturers, and, as explained above, on agricultural products low rates from the West to Tennessee points have proved injurious to the Tennessee farmers while beneficial to the Tennessee consumers. So that low rates to any point, while benefiting some classes of population, must injure others, and whether
161 or not the entire community is benefited by it depends on the preponderance or greater number of those who are benefited or those who are injured.

12. Q. Are not the consumers in all instances benefited by low rates on articles which they consume?

A. They might be benefited in securing some of their supplies at slightly lower prices, although, as stated in the case of dry goods, and boots and shoes from the East, possibly the consumer might get no benefit, but the jobber or merchant might receive some; but if these consumers should be employes of the manufacturing establishments which were injured by these low rates to other points, a reduction in their wages might more than offset the less price of the articles which they consume.

13. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to one of those localities and discriminatory against the other benefit the one and injure the other?

A. Yes, sir.

14. Q. In your direct examination you stated that the rates from New York and other Northeastern cities via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain were just and reasonable. Among other reasons for that opinion, you stated that they did not allow carriers excessive remuneration for the service performed. It is also your opinion that the lower rates by that route for the longer haul through Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain to Atlanta are just and reasonable in and of themselves?

A. It is.

15. Q. Do those rates to Atlanta yield the carrier revenue in excess of the cost of transportation?

A. They do.

16. Q. Would those rates to Atlanta be made higher but for competition?

A. They would.

17. Q. Is a rate, in your opinion, reasonable, which does not yield a carrier a proper remuneration over and above the cost of the service of carriage?

A. No, I do not think it is.

18. Q. Does not the cost or expense of the service of transportation depend largely or to some extent on the length of the haul, other things being equal?

A. That is one of the factors that enters into the cost, but only one.

262 19. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. It is.

20. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. It is.

21. Q. Other things being equal, is not the wear and tear on locomotives, cars, track, roadbed, etc., greater the greater the length of the haul?

A. Yes, sir.

22. Q. Other things being equal, is not the cost of keeping the road in repair, or in good condition, greater the greater the length of the road?

A. It is.

23. Q. Other things being equal, does it not require more locomotives and cars and crews for running trains on a long road than on a short one?

A. It does.

24. Q. Other things being equal, does not distance add to the cost of building the road, and are not therefore the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. Where all things are equal that is true.

25. Q. Is not the expense to the carrier of strictly local hauls greater per ton per mile than on long through hauls?

A. It is.

26. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and the Ohio Rivers?

A. Continuously, since December 1865.

27. Q. Has the greater charge for the shorter than the longer haul over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory except in cases of competition in transportation to the longer distance point?

A. Well, that word "competition" is a very broad one. Sometimes there is competition of products as well as competition of lines, competition of markets, and letting the word "competition" include all branches of the subject, then I would answer that it has never been made except to meet competition—letting the word "competition" cover all branches of the subject—that is, competition of markets, product with product, competition of line and line, and competition of rail with water.

28. Q. Is there competition of markets without there being also competition in transportation?

263 A. Yes, sir.

29. Q. Well, name an instance.

A. We have right on our own line here two towns, selling the same product, competing with each other, shipping over the same road, both being local points. For instance, there is a pipe foundry at South Pittsburg and another at Bridgeport. Both are local to our line, and both of which compete strongly with each other in selling their pipes to the markets of the country.

30. Q. Is there any greater charge for the shorter than the longer haul?

A. No; in that case the charge is the same.

31. Q. I am referring to cases of a greater charge for the shorter haul. Is that greater charge ever made except in the case of competition in transportation, to your personal knowledge?

A. I can not for the moment call to mind such a case, though I am quite sure there have been such cases. There is a case in point from Nashville to Hickman. There is only one line from Nashville to Hickman, and yet the rates to Hickman are less than to points this side of Hickman; there is only one line; that is competition of market with market. Nashville reaches Hickman, Kentucky, over the eastern division of our road; St. Louis reaches Hickman not only by rail, but also by the Mississippi River boats, at low rates, so that Nashville would be unable to sell any goods in Hickman, and therefore we were forced to make low rates from Nashville to Hickman. They were made to meet the competition at St. Louis and other markets reaching Hickman by river. We do not make as low rates to the other points this side of Hickman, notwithstanding there is only one road between here and Hickman; no other line from here to Hickman. I never heard of freight going from Nashville to Hickman except over our road.

32. Q. Is that not a case of competition between your line to Hickman and the lines from St. Louis to Hickman?

A. It is what I call competition of market with market.

33. Q. Does it not also involve the competition between transportation lines from different markets?

A. Indirectly, it does; yes, that is true. St. Louis has her low rates.

34. Q. Is not a rate under which traffic will move, and which is not so high as to divert the traffic from other roads or lines, in your opinion, a reasonable rate?

A. Yes, sir; I think it is.

264 35. Q. If the rule, that there shall be no greater charge for a shorter than a longer haul over the same line in the same direction, the shorter haul being included in the longer, were observed by all the roads or lines from New York and other northeastern cities to Nashville, would it be necessary for any one of those roads or lines to depart from this rule in order to retain its share of the traffic, and prevent diversion of its traffic to the other roads or lines?

A. It would; that is, it would be necessary to depart from that rule.

36. Q. In your direct examination, you named a number of lines that could be formed to Atlanta. Could not all those lines be formed to Stone Mountain, Conyers, Covington, Social Circle, Madison, and Greensboro with the Georgia railroads as the terminal carrier of such lines?

A. They could.

37. Q. Is not traffic transported from New York and other northeastern cities to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain under through bills of lading issued by the initial carrier at New York and other northeastern cities?

A. That is my understanding.

38. Q. Is not such traffic transported under through rates named in such bills of lading?

A. That is my information.

39. Q. Do the agents of the Nashville, Chattano'ga and St. Louis

Railway in the west, whom you spoke of, in your direct examination, who, I believe you stated, solicited business for Atlanta, solicit business for points beyond Atlanta on the Georgia Railroad?

A. Yes, sir.

40. Q. Do they solicit business for Stone Mountain, Covington, Conyers, Madison, Social Circle, and Greensboro?

A. They do.

41. Q. Are not the rates by all the all-rail lines from New York and other northeastern cities to Atlanta the same?

A. Yes, sir; they are intended to be so.

42. Q. Are not those rates the same now as they were when the Southern Railway and Steamship Association was in existence?

A. I think they are the same now as when that association ceased to exist, but much lower than when it began to exist.

43. Q. Are not those the rates which were established and promulgated by that association?

A. I think so.

265 44. Q. You stated in your direct examination that the average receipts per ton per mile on traffic in general and the estimated cost of carrying one ton one mile, could not be used as the standard in railroad rate making. Would not such data throw some light upon the question whether an existing rate was excessive or not?

A. It would be of some service to have such data, particularly when the question was being considered whether it would be best to meet competition or ignore it. Sometimes, particularly in competition with water lines, the rates go to an absolutely losing basis and it is thought best to ignore such competition and let the business go when the probabilities are that such a line would not be permanent. At other times, rather than yield to the water lines, valuable and important traffic and thereby allow the water lines to become permanent, I have known roads, managed by very able officers, to handle freight at what I thought was less than the cost, which is what I call a war measure.

45. Q. Have not railroads been in the habit of making out and recording this data as to average rec'ipts per ton per mile and estimating the cost of carrying per ton per mile, for a long period of time?

A. Yes, sir.

46. Q. As far back as 1880 and prior to that time?

A. Some roads have, I think, as far back as that.

47. Q. Are not the average receipts per ton per mile the result of accurate calculation?

A. I think so.

Redirect examination by Mr. BAXTER:

1. Q. What object do the railroad companies have in keeping and compiling statistics with reference to the number of tons carried one mile and the number of tons carried of freight earning revenue or the estimated average receipts per ton per mile or the estimated average cost of carrying one ton one mile?

A. I think more with a view of keeping expenses to a minimum and adjusting their expenses to their income, and a good many, I think, just with a theoretical turn of mind, they want to get a good deal of detailed information, although of no practical use to them after they get it.

2. Q. Did you ever know of a traffic manager or a general freight agent using those factors in the making of competitive rates?

A. No, sir; it is only considered when, as explained in the last
266 question, in being forced by water competition to make excessively low rates, to determine—that is, as far as possible—how much loss would result from handling the traffic.

NASHVILLE, TENNESSEE, *July 22, 1897.*

GEORGE P. BILES, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. BAXTER:

1. Q. State your name, age, residence, and occupation.

A. George P. Biles, 40; occupation, general freight agent of the Cincinnati, New Orleans and Texas Pacific Railway Company; residence, Newport, Kentucky.

2. Q. How long have you been connected with the railroad freight transportation business in the United States and in what capacities?

A. Since 1884, in various capacities, such as rate clerk; afterwards assistant general freight agent and since October, 1895, general freight agent.

3. Q. In this case the Interstate Commerce Commission ordered the defendants to desist from charging for the transportation of like kind of property from New York, Philadelphia, &c., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain more than to Atlanta. The rates from New York, Philadelphia, &c., via Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, Stone Mountain and Atlanta were as shown by the report and opinion of the commission, in 1892, as follows:

	Classes.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Greensboro	137	118	102	87	69	64	45	59	42½	41	65	83	82½
Madison	144	123	107	89	71	56	47	60	43	42	67	85	84
Social Circle	144	125	109	90	72	57	48	61	43½	42½	68	86	85
Covington	141	122	108	91	73	58	48	60	44	43	69	87	86
Conyers	138	119	105	90	74	59	47	59	44½	43	70	85	87½
Stone Mountain	132	114	101	85	71	58	45	57	47	44	69	80	89½
Atlanta	114	98	86	78	60	49	36	48	46	39	58	68	78

267 State what in your opinion would be the effect of such reductions in said rates as to increasing the traffic to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain as to make up for any loss of revenue that would otherwise result, and give your reasons for any opinion you may express.

A. If the rates were reduced from New York, Philadelphia, etc., to Greensboro, etc., it would not, in my opinion, have the effect of increasing or building up traffic at those points to any appreciable extent. My reason for this opinion is that the reduction in the rates would not have the effect of materially increasing the consumption of articles used at those points and in adjacent territory. The amount of business at those points is not of great volume because of the limited production.

4. Q. State whether said rates from New York, Philadelphia, etc., via

Charleston and Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are just or unjust, reasonable or unreasonable, and give your reason for any opinion you may express.

A. In my opinion the rates from New York, Philadelphia, etc., to Greensboro, etc., are just and reasonable within themselves. My reason for this opinion is that the rates from and to the points named are relatively in line with the rates existing from New York, Philadelphia, etc., to other points similarly located in that section of the country.

5. State what lines actually and actively competed in 1892 and now compete from New York, Philadelphia, etc., in transportation to Atlanta, Georgia, of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. I am unable to enumerate all of the lines which in 1892 competed from New [York], Philadelphia, etc., in the transportation to Atlanta, Georgia, of freight classified in the classes mentioned. The following, however, are some of the all-rail and water lines which now compete for this business. Some of them also competed for this traffic in 1892.

The all-rail routes are:

Richmond and Danville Dispatch.
Atlantic Coast Dispatch.
Seaboard Dispatch.
Southern States Dispatch.
Shenandoah Dispatch.

Rail and water routes:

Virginia and Tennessee Air Line.
Pennsylvania Southern Line.
Piedmont Air Line.
268 Seaboard Air Line.
Mallory Line.
Merchants and Miners Transportation Company.
Atlantic Coast Line.
Clyde Line.
Ocean Steamship Company.

6. Q. State what lines actually and actively competed in 1892 and now compete from Ohio River points and sections of the country other than New York, Philadelphia, etc., in transporting to Atlanta of freight classified as 1, 2, 3, 4, 5, 6, A, B, C, D, E, H, and F.

A. The following are the names of the transportation lines which in 1892 competed and now compete for traffic from various Ohio River crossings as named to Atlanta:

From Cincinnati, Ohio:

Cincin'ati, New Orleans, and Texas Pacific Railway.
Louisville and Nashville Railroad.

From Louisville, Kentucky:

Louisville and Nashville Railroad.
In 1892 Louisville Southern Railroad, now known as the Southern Railway in Kentucky.
In 1892 Chesapeake, Ohio & Southwestern Railroad, now known as the Illinois Central Railroad.
(Louisville Division.)

From Evansville, Indiana:

Louisville and Nashville Railroad.

Ohio Valley Railway.
From Owensboro, Kentucky:
Louisville and Nashville Railroad.
In 1892 Louisville, St. Louis and Texas Railroad, now known as Louisville, Henderson & St. Louis Railroad.
From Henderson, Ky.:
Louisville and Nashville Railroad.
Ohio Valley Railway.
From Paducah, Kentucky:
In 1892 Chesapeake, Ohio & Southwestern Railroad, now known as Illinois Central Railroad. (Louisville Division.)
In 1892 Paducah, Tennessee and Alabama Railroad, now known as Nashville, Chattanooga and St. Louis Railway.
269 Illinois Central Railroad.
Mobile and Ohio Railroad.

7. Q. State whether or not the Cincinnati, New Orleans and Texas Pacific Railway and its connections actually and actively compete for the carriage of freight of the said various classes to Atlanta, from what cities?

A. The Cincinnati, New Orleans and Texas Pacific Railway Company and its connections actually and actively compete for traffic from Cincinnati and points from Northern and Northwestern States to Atlanta, Georgia. The Cincinnati, New Orleans and Texas Pacific Railway Company and its connections also compete for traffic from Louisville and Central Kentucky points to Atlanta, Georgia.

8. Q. Does said railroad and its connections have agents at said cities to solicit said freight for transportation to Atlanta?

A. The Cincinnati, New Orleans and Texas Pacific Railway Company and its connections have agents at the various points for the purpose of soliciting freight for their respective lines to Atlanta, Georgia. The Cincinnati, New Orleans and Texas Pacific Railway has resident agents at Cincinnati, Ohio, Lexington, Kentucky, and Chicago, Illinois. It also employs soliciting agents whose duty it is to travel throughout the States of Pennsylvania, Ohio, Michigan, Indiana, Illinois, and Kentucky in solicitation of freight from the various cities and towns in said States for Atlanta.

9. Q. Does said railway and its connections advertise at said cities for the transportation of said freights to Atlanta?

A. The Cincinnati, New Orleans and Texas Pacific Railway publishes tariff rates, copies of which are on file in the Cincinnati, Lexington, and Chicago offices for public inspection. Copies of said tariffs are distributed to shippers and railroad agents in the different towns and cities of the States of Pennsylnania, Ohio, Michigan, Indiana, Illinois, and Kentucky.

10. Q. State whether or not the rates on freight of the various classes from New York, Philadelphia, etc., to Atlanta are controlled to any, and if so, to what extent by competition?

A. The rates of freight from New York, Philadelphia, etc., to Atlanta, Georgia, are controlled to a very great extent by competition. The rail lines themselves have such competition, and competition exists between the various water and rail lines. The water and rail lines produce competition as between themselves and the all rail routes. The rates on the

various classes of freight from the East are competitive to a greater or lesser extent with the rates on similar commodities shipped from Northern, Western, and Southern cities to Atlanta, Georgia.

270 11. Q. State whether competition, between carriers, whether by rail or by water, substantially affect the circumstances and conditions under which the transportation of freight is conducted.

A. In my opinion, competition between carriers, either by rail or water, substantially affects, directly or indirectly, in a number of ways, the circumstances and conditions under which the transportation of freight is conducted. For example, where two or more rail transportation lines compete with each other for freight traffic from and to certain points, one of the lines may inaugurate a special fast-train service for handling the business with a view of securing the bulk of the business. Such action will force its competitors to do likewise in order to secure some of the freight and an additional cost which such quick service would bring about.

12. Q. State whether there is any such competition at Greensboro, Madison, Social Circle, Covington, Conyers, or Stone Mountain as is sufficient to affect the rates charged by the lines from New York, Philadelphia, etc., via Charleston and Augusta, to those stations.

A. Competition at Greensboro, Madison, etc., is not of the same character as the competition which exists at Atlanta or Augusta. The points in question are located on one line only, with the exception of Madison, which is reached by the Central of Georgia Railroad and the Georgia Railroad, whereas in the case of Atlanta there are a number of railroads entering that city from the East, North, South, and West.

13. Q. Explain the basis of making rates from Boston, New York, Philadelphia, and Baltimore. Are the rates that are fixed by the Georgia Railroad Commission from the Georgia seacoast to Atlanta taken into consideration?

A. The rates from Boston, New York, Philadelphia, and Baltimore to Atlanta, Georgia, are made by fixed differentials above the rates from said Eastern cities to Augusta, Georgia; water competition from Eastern cities to Augusta establishes the all rail rates from and to said points. Therefore water competition, from Eastern cities to Augusta, is a factor in the construction of the rates from Eastern cities to Atlanta. The water at transportation rates from the Eastern ports to Savannah, Georgia, plus the rates of the Georgia Railroad Commission, are also considered in fixing the all rail and rail and water rates from said Eastern points to Atlanta.

14. Q. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this
271 cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. I do not think that there is anything further I can say in regard to this.

Cross-examination by Mr. SHAVER:

1. Q. In answering the direct interrogatories propounded to you, you read from a manuscript before you. How long ago did you prepare those answers?

A. Those answers were prepared on June 22.

2. Q. Were you furnished with copies of the interrogatories?

A. Yes, sir.

3. Q. In the event Atlanta merchants sell at Stone Mountain, Conyers, Covington, Social Circle, Madison, and Greensboro in competition with the local merchants at those points, would not a reduction in the rates at those points so as to make their rates not higher than the Atlanta rates be of great benefit to the local merchants at those points in that competition?

A. It would probably help the merchants to some extent.

4. Q. Does not the prosperity and growth of a locality depend largely or to some extent on the prosperity of its merchants and business men?

A. Well, that depends upon circumstances. It would be reasonable to suppose, I imagine, that if the merchants were tolerably successful that it would have some influence on the community in some cases, but not in all cases.

5. Q. As a general rule, in the absence of exceptional conditions, is not the natural tendency of a material reduction in rates to a given point towards improving and increasing the business at such points?

A. Not necessarily.

6. Q. My question was, as a general rule and in the absence of exceptional conditions, was not the natural tendency of a material reduction in rates towards improving and increasing the business of such point?

A. Well, that again depends on circumstances. Probably in limited cases it might have some general improvement, but I venture to say that to a large number of towns a general reduction in the rates would have no material effect. The transportation rates must be of such nature as to enable the carrier to give good service to these particular points. If the rates are reduced to a basis which might be only reasonably remunerative and in some cases hardly remunerative, why, it
272 appears to me that the carriers could not be as anxious, probably, to give as effective services, whereas if the rates were fair, it would enable them to give fairly good services, and at the same time in the building up of a community the railroad companies and the carriers themselves are a very important factor.

7. Q. You say that in the building up of a community railroads and carriers are a very important factor. Do not therefore the rates of transportation established by carriers have some effect in building up a community?

A. That depends, again. In a large number of cases in the South a reduction in the rates would scarcely have any effect whatever. As I said before, it does not follow that because transportation rates may be reduced that it would result in bringing about a new state of affairs to any marked degree.

8. Q. Where two localities are so situated with reference to each other that they compete for business in the same territory, does not a system of rates which is preferential to any one of these localities and discriminatory against the other benefit the one and injure the other?

A. Well, if you are speaking of localities as sections of the country, I think probably that might have some effect.

9. Q. Do not the rates of transportation affect and enter into prices of goods on which those rates are charged?

A. Yes, sir, in some cases, but in a large number of cases the transportation rates do not affect the price of the articles that are sold over the counter in the store of a retail merchant.

10. Q. In this case, where you state the rates do not affect the price of the article sold over the counter to the consumer, do they not affect the cost of the article to the merchant?

A. Yes, sir; it affects the cost of the article to the merchant, but the consumer does not get the benefit. As a rule, if the reduction is made in the transportation rates, why, the merchants get the benefit of it and not the consumer.

11. Q. Do not lower prices of goods tend to bring the goods within the reach of a greater number of people and thus increase the consumption of such goods?

A. There may be some truth in that, but transportation rates would not have that effect, because transportation rates are made per hundred pounds, whereas the articles, as a rule, are sold by weight or measurement. Therefore a reduction of a few cents per hundred pounds would not bring about any reduction or change in the retail price of those articles.

12. Q. Does not the prosperity of a road depend more upon the prosperity of the local stations along its entire line than on that of a few widely scattered trade centers or basing points?

273 A. A great many of the carriers have practically no local business. They have to depend on their through business. Other carriers have a fair local business, and of course a percentage of the gross earnings is due to local traffic. I believe that a great many of the carriers make special efforts to get people to emigrate. That is being done all over the South, with sometimes satisfactory results, and others fail to carry their point in this respect.

13. Q. Would not a system of rates which would tend to build up business at the local stations along the entire line of the road contribute more to the prosperity of a road than a system which discriminates against such localities in favor of widely separated trade centers or basing points?

A. That is a difficult question to answer. It depends entirely upon the circumstances and conditions forced. My experience is that reduced rates that have been or may be put in effect at local stations do not bring about satisfactory results. That is, it does not bring business there. People are not there and they do not go there, and would not go, no matter what rates you may establish, whether it is the one dollar per hundred or fifty cent' per hundred. It has no effect whatever.

14. Q. That is not an answer to my question. My question was whether a system of rates which would build up business at local stations along the entire line of the road contribute more to the prosperity of the road than a system which builds up widely separated trade centers or basing points at the expense of the intermediate points or territories?

A. You say a system of rates which would build up. I do not know that any system of rates could be put in effect which would build up the business of the local points as against the trade centers that you mention; I will say in explanation of that, that so far as the Cincinnati, New Orleans and Texas Pacific Railway Company is concerned, it does not charge higher rates to intermediate points in Tennessee than at Chattanooga, Tennessee. But it has not had the effect of increasing the local

business of these points, and that has not been a question of one year or two years. I have not seen any remarkable, in fact, I have not seen any increase in business, and so far as my knowledge goes I do not believe that the reduction to the local stations, which may be practically the same as to these trade centers, would bring about what you may term a general marked improvement at these local stations. People flock to these trade centers all the time. They do not care to get off in the country.

15. Q. You said that the Cincinnati, New Orleans and Texas
274 Pacific Railway Company makes no greater charge for the shorter than the longer haul at any point on its lines between *the* Cincinnati and Chattanooga. Does that road meet competition at Chattanooga?

A. Yes, sir; in transportation from Cincinnati.

16. Q. Does it not come in competition with the Louisville and Nashville Railroad and the Nashville, Chattanooga and St. Louis Railway in transportation between Cincinnati and Chattanooga?

A. Yes, sir.

17. Q. You testified that in your opinion the rates from New York to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain are just and reasonable in and of themselves. Is that also your opinion as to the lower rate for the longer haul through those points to Atlanta?

A. While the rates to Atlanta may not be reasonable, the figures as they now stand are the best that can be obtained.

18. Q. Would higher rates to Atlanta be charged but for competition?

A. I think so.

19. Q. Do those Atlanta rates yield the carrier any revenue above the cost of the service of the carriage?

A. I believe so.

20. Q. Is a rate in your opinion reasonable in and of itself which does not yield a carrier a proper remuneration over and above the cost of the service of carriage?

A. I should say not.

21. Q. Can it be ascertained whether a rate is reasonably remunerative to the carrier without first considering the cost above the cost of the service of the carriage?

A. That is a very hard matter to determine. It is a very difficult matter to decide or to fix your rate as compared with the cost of service of operation. There are so many conditions surrounding this rate situation in regard to that, that it is a very difficult thing to form.

22. Q. Can it be ascertained whether a rate yields to the carrier an increase over and above the cost of the service of carriage without first ascertaining the cost of that service?

A. I think myself that that depends somewhat upon experience. If a new railroad is opened up, it has to fix its rates, we will say, to local points, to enable the carrier to meet the cost of operation. Now, the cost of operation has not been fixed, so, therefore, the rates will have to be fixed by the management as they will feel will bring about the desired result—I mean from a revenue standpoint, and which will meet all
275 the expenses. On the other hand, again, those rates may not be high enough to meet these expenses.

23. Q. Does not the cost or the expense of the service of transporta-

tion depend largely, or to some extent, on the length of the haul, other things being equal?

A. If you mean by that question, if freight can be handled for a longer distance for a less rate per ton per mile——

24. Q. I did not refer to the rate per ton per mile.

A. You referred to the distance, I understand.

25. Q. I will read the question again. (Counsel here repeated the question.)

A. I would like for you to explain that to me—what you mean by that.

26. Q. Well, all other things being equal, and the rate of speed being the same, the length of the train being the same, the quantity of the cars being the same, &c., would it not cost more to transport the train twenty miles than ten?

A. It would probably cost more in the aggregate.

27. Q. That is what I mean, in the aggregate; I do not refer to cost per mile.

A. It will cost more to run a train of twenty cars three hundred miles than a train of twenty cars fifty miles.

28. Q. Other things being equal, is not the consumption of time greater the greater the length of the haul?

A. Of course; it takes longer for a train to go a hundred miles, at the rate of fifty miles per hour, than it does to go fifty miles.

29. Q. Other things being equal, is not the consumption of fuel greater the greater the length of the haul?

A. Yes, sir.

30. Q. Other things being equal, is not the wear and tear on locomotives, cars, track, &c., greater the greater the length of the haul?

A. Yes, sir.

31. Q. Other things being equal, is not the cost of keeping the road in repair or in good condition greater the greater the length of the road?

A. Yes, sir.

32. Q. Does it not require more locomotives and cars and crews for running trains on a long road than on a shorter road?

A. Do you mean in the aggregate or do you mean as compared with the distance? If you mean in the aggregate, I suppose it will cost more for the longer road than for the shorter road.

276 33. Q. I asked, does it not require more locomotives and cars and crews for running trains on a long road than on a short one?

A. Yes, sir.

34. Q. Other things being equal, does not distance add to the cost of building a road, and are not, therefore, the fixed charges, such as interest on the capital invested, greater the greater the length of the road?

A. Yes, sir.

35. Q. Is not the expense to the carrier on strictly local hauls greater per ton per mile than on a long through haul?

A. Yes, sir; I should say so.

36. Q. How long have you been engaged in the railroad business in the territory east of the Mississippi and south of the Virginias and Ohio Rivers.

A. Since 1884.

36½. Q. Has the greater charge for the shorter than the longer haul

over the same line in the same direction, the shorter haul being included in the longer, ever, to your personal knowledge, been made in that territory except in cases of competition in transportation to the longer distance point?

A. I do not know that I do.

37. Q. Are not the rates by all the all-rail lines from New York and other Northeastern cities to Atlanta the same?

A. I imagine they are. The various rail lines publish their tariffs, which are supposed to be the same by all the all-rail lines.

38. Q. Are not the rates from New York and other Eastern cities via the South Atlantic coast ports, Charleston, Savannah, etc., and thence by rail to Atlanta, the same?

A. They are supposed to be.

39. Q. Were not those rates in 1892 the rates which were established and promulgated by the Southern Railway and Steamship Association?

A. The Southern Railway and Steamship Association at that time published the rates to Atlanta, Georgia. When I say "published," I mean as far as the lines themselves are concerned as to the various roads.

40. Q. Were not the rates from New York and other Eastern cities to Stone Mountain, Conyers, Covington, Social Circle, Madison, and Greensboro in 1892, and are they not now, made by combination of the through rates to Atlanta or Augusta plus the local rates back or on to those intermediate points, as the case may be?

A. The rates to those points are made on the lowest combination.

41. Q. Of through and local rates?

277 A. Of through rates to Atlanta and Augusta, plus the rates from those points.

42. Q. Are not the rates from New York to Stone Mountain, Conyers, Covington, Social Circle, Madison, and Greensboro what are termed local rates?

A. Yes, sir.

43. Q. Are not the rates from Augusta to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain local rates?

A. They are known as local rates or termed local rates.

44. Q. You named in your direct examination a number of lines both from the east and the west for Ohio River points that could be formed and which you stated competed for business between New York and other eastern cities and Cincinnati and western points to Atlanta. Can not all those lines also be formed to Stone Mountain, Covington, Conyers, Social Circle, Madison, and Greensboro by combinations with the Georgia Railroad as the terminal carrier?

A. I think so.

44. Q. Do not all those lines compete for business to Stone Mountain, Conyers, Social Circle, Madison, and Greensboro as well as to Atlanta?

A. I am not certain as to that, but I am of the opinion that they do.

45. Q. Is traffic transported from New York and other Eastern cities, and also from Cincinnati and Ohio River points to Stone Mountain, Conyers, Social Circle, Madison, and Greensboro under through bills naming through rates issued by the initial carrier?

A. Yes, sir.

46. Q. Do not the agents of the Cincinnati, New Orleans and Texas Pacific Railway Company solicit business to Stone Mountain, Conyers, Social Circle, Madison, and Greensboro as well as to Atlanta?

A. They do.

47. Q. Are not the rates to those points, Stone Mountain, etc., published and advertised as well as the rates to Atlanta?

A. They are.

48. Q. Does not the Cincinnati, New Orleans and Texas Pacific Railway Company compete for business to Greensboro, Madison, Social Circle, Covington, Conyers, and Stone Mountain?

A. Yes, sir.

Redirect examination by Mr. BAXTER:

278 1. Q. What is the distance from Cincinnati to Chattanooga via the Cincinnati, New Orleans and Texas Pacific Railway Company?

A. 336 miles.

2. Q. How are rates made from Cincinnati to local stations on the Cincinnati, New Orleans and Texas Pacific Railway between Cincinnati and Chattanooga? Do they increase with the distance?

A. Yes, sir; according to distance.

3. Q. At what distance from Cincinnati on the Cincinnati, New Orleans and Texas Pacific Railway Company do the rates which are proportioned to distance become as high from Cincinnati as are rates from Cincinnati to Chattanooga?

A. Well, probably on some classes we may meet the Chattanooga rates at the distance of 125 miles south of Cincinnati. On other classes it may be 140 miles.

4. Q. At those local stations on the Cincinnati, New Orleans and Texas Pacific Railway between Cincinnati and Chattanooga, at which rates are as high as the rates from Cincinnati to Chattanooga, do the merchants at said local stations purchase their goods at Cincinnati or Chattanooga, or do they purchase them in the Eastern markets?

A. The purchases are made at various points. I do not think the merchants at the local stations on the Cincinnati, New Orleans and Texas Pacific Railway buy their goods in the Eastern markets. They get them from Chattanooga, or from Knoxville, or from Cincinnati, or from Louisville. They do not go so far for markets for their goods.

5. Q. What is the reason that they do not, if you know?

A. Well, I do not know exactly, except they have been in the habit of purchasing their goods from these various nearby trade centers and probably do not care to make any change.

6. Q. They have established their credit and commercial relations with the cities located near to them?

A. Yes, sir. They exchange their freight, you know. They buy from the man in Chattanooga and they sell him something in return.

Recross-examination by Mr. SHAVER:

1. Q. Do you know of your own personal knowledge that the merchants at these points intermediate between Cincinnati and Chattanooga, which have the same rates as Chattanooga, do not buy their supplies of goods at Cincinnati and Ohio River points, or in the East, in New York or other Eastern cities?

A. Well, I have not in view all merchants of the various towas along the lines of the road, but I think I am correct in stating that they buy chiefly from Cincinnati, Chattanooga, and Louisville.

279

2. Q. Chiefly?

A. Yes, sir. Of course, they buy certain things at points, say, in Ohio, Indiana, and off the Ohio River, like agricultural implements, and something of that sort, but I think their boots and shoes and provisions generally are bought at these other towns that I have mentioned.

3. Q. Has the Cincinnati, New Orleans and Texas Pacific Railway Company suffered any great loss on material loss from charging rates to these intermediate points not higher than the rates to Chattanooga?

A. Well, we have suffered loss to the extent of the difference between the rates that are now in effect and higher rates which were in effect some years ago.

4. Q. How long since the Cincinnati, New Orleans & Texas Pacific Railway Company ceased charging higher rates to those intermediate points than to Chattanooga?

A. It was several years ago, but I cannot tell you just exactly when it was.

Redirect examination by Mr. BAXTER:

1. Q. Is it not the Cincinnati, New Orleans & Texas Pacific Railway Company in the hands of a receiver?

A. Yes, sir.

I, Frank Lyon, who was agreed upon by counsel for both parties to act as special examiner, as set forth in their foregoing stipulation, do hereby certify that I faithfully and truly and correctly took the testimony of the above-named witnesses in shorthand, and afterwads reduced it to typewriting, and that the foregoing pages contain a full, true, and correct report of the testimony given by each of said witnesses.

This 24th day of August, 1897.

FRANK LYON,
Acting Special Examiner,
1317 F street NW., Washington, D. C.

284 EXHIBIT No. 1.—Filed by Carlton Hillyer, p. 107.

GEORGIA RAILROAD COMPANY,
Augusta, Ga., January 22, 1892.

Statement prepared by C. S. Sikes, traveling auditor, under the supervision of Carlton Hillyer, auditor, and with the advertisement of E. R. Dorsey, general freight agent, showing the relationship between the through and local freight business of the Georgia Railroad Company for the fiscal year ending June 30th, 1891:

LOCAL BUSINESS.

Westward freight from Augusta and points east to local stations on Georgia Railroad	$218,548 82
Eastward freight from local stations on Georgia Railroad to Augusta and points east	236,803 87
Eastward freight from roads west to local stations on Georgia Railroad	91,920 19
Westward freight from local stations on Georgia Railroad to roads west	48,868 68
Freight from station to station on Georgia Railroad	233,631 58
Total local business	829,773 14
Less local through freight to and from Atlanta, Athens, Washington, Milledgeville, and Macon, which enjoys through rates	79,967 00
Local tariff freights	749,806 14

THROUGH BUSINESS.

Westward freight from Augusta and points east to connecting roads west	79,947 17
Eastward freight from connecting roads west to Augusta and points east	371,557 12
Total through business	451,504 29
Add local through freight as mentioned above	79,967 00
Through tariff freights	531,471 29
Total freights	1,281,277 43

The above freights are exclusive of mail, express, and miscellaneous earnings, and are distributed according to classes, as follows:

Classes.	Local tariff freights.			Through tariff freights.			Total freights.				
	Ton mileage.	Revenue.	Average rate per ton per mile.	Ton mileage.	Revenue.	Average rate per ton per mile.	Ton mileage.	Revenue.	Average rate per ton per mile.	Revenue which would have accrued if local tonnage had been hauled at through rates.	Difference or loss which would have been suff'd by Ga. Rd. had local tonnage been hauled at through rates.
J. Cotton	3,072,196	$186,972	.06-09	2,847,068	$29,510	.01-04	5,919,264	$216,482	.03-66	$31,950	$155,022
K. Fertilizers	10,296,143	117,225	.01-14	7,854,456	50,533	.00-64	18,150,599	167,778	.00-92	65,895	51,330
N. Live Stock	491,732	12,889	.02-62	663,186	8,529	.00-29	1,154,918	21,418	.01-85	6,343	6,546
L. Coal	397,656	5,015	.01-26	9,020,116	80,347	.00-89	9,417,772	85,362	.00-91	3,539	1,476
1. Merchandise	458,709	43,714	.09-53	309,551	11,782	.03-81	768,251	55,496	.07-22	17,476	26,238
2. Merchandise	134,696	10,871	.08-07	266,648	8,928	.03-35	401,344	19,799	.04-93	4,512	6,359
3. Merchandise	239,553	15,337	.06-40	290,560	9,039	.03-11	529,913	24,376	.04-60	7,450	7,887
4. Merchandise	625,027	35,487	.05-67	339,132	9,514	.02-81	964,759	45,001	.04-66	17,580	17,907
5. Merchandise	370,663	16,010	.04-32	614,320	10,888	.01-77	984,983	26,898	.02-73	6,560	9,450
6. Merchandise	2,284,402	51,057	.02-23	3,345,630	35,948	.01-07	5,630,062	86,985	.01-55	24,443	26,594
A. Ties and bagging, etc	423,895	8,352	.01-97	504,005	4,304	.00-85	927,900	12,656	.01-36	3,603	4,749
B. Bacon, bulk meats, etc	740,153	15,476	.02-09	7,199,459	69,396	.00-97	7,939,612	84,872	.01-07	7,179	8,297
C. Flour, etc	1,624,968	29,608	.01-82	4,342,247	37,228	.00-86	5,967,215	66,836	.01-12	13,974	15,634
D. Grain, hay, etc	2,137,429	38,268	.01-79	12,165,463	96,098	.00-79	14,302,892	134,366	.00-94	16,885	21,383
E. Ale, beer, etc	10,256	364	.03-55	209,841	2,792	.01-33	220,097	3,156	.01-43	136	228
F. Flour in barrels, etc	98,148	1,784	.01-82	3,639,321	31,269	.00-86	3,737,469	33,053	.00-88	844	940
G. Cotton seed, etc	774,417	21,081	.02-72	110,687	2,773	.02-51	884,104	23,834	.02-70	19,412	1,649
H. Whiskey, etc	55,391	1,326	.02-54	421,428	9,754	.02-31	473,819	11,080	.02-34	1,210	116
M. O. P. R. Stone, etc	9,073,672	139,010	.01-53	2,521,372	22,839	.00-91	11,595,044	161,829	.01-40	82,570	56,440
Total	33,395,727	749,896	.02-25	56,655,290	531,471	.00-94	89,961,017	1,281,277	.01-42	331,561	418,245

286 EXHIBIT No. 2.—Filed by Carlton Hillyer, p. 109.

AUGUSTA, GA., *June 14th, 1897.*

Statement showing income and expenses of the Georgia Railroad from the beginning of the lease of said road, April 1st, 1881, to the close of the fiscal year ending June 30th, 1896.

Fiscal years.	Gross earnings.	Operating expenses.	Net earnings.
Year ended Mar. 31st, 1882	$1,326,052.11	$977,485.46	$348,566.65
Year ended Mar. 31st, 1883	1,314,482.17	851,453.21	463,028.96
Year ended Mar. 31st, 1884	1,324,246.82	846,701.50	477,545.32
Year ended Mar. 31st, 1885	1,286,485.08	820,240.23	466,244.85
Year ended Mar. 31st, 1886	1,322,818.97	861,502.67	461,316.30
Year ended Mar. 31st, 1887	1,397,735.41	903,835.96	493,897.45
Year ended Mar. 31st, 1888	1,514,272.56	957,645.41	556,627.15
15 m ths ending June 30, 1889	1,859,727.77	1,308,851.26	551,876.51
Year ended June 30th, 1890	1,683,636.14	1,178,771.00	504,865.14
Year ended June 30th, 1891	1,891,278.94	1,233,218.07	658,060.87
Year ended June 30th, 1892	1,585,506.69	1,271,865.20	313,641.43
Year ended June 30th, 1893	1,480,251.19	1,088,232.56	392,018.83
Year ended June 30th, 1894	1,367,184.03	869,985.72	497,200.91
Year ended June 30th, 1895	1,307,637.57	987,364.97	320,273.60
Year ended June 30th, 1896	1,479,792.02	1,048,672.46	431,119.56
Total	22,102,106.07	15,195,822.54	6,906,283.53

Fiscal years.	Net earnings.	Income from investments.	Total net income.
Year ended Mar. 31st, 1882	$348,566.65	$100,954.53	$449,521.18
Year ended Mar. 31st, 1883	463,028.96	156,683.07	619,712.03
Year ended Mar. 31st, 1884	477,545.32	114,682.25	592,227.57
Year ended Mar. 31st, 1885	466,244.85	92,268.00	558,512.85
Year ended Mar. 31st, 1886	461,316.30	77,268.00	538,584.30
Year ended Mar. 31st, 1887	493,897.45	54,768.00	548,665.45
Year ended Mar. 31st, 1888	556,627.15	57,746.75	614,373.90
15 m ths ending June 30, 1889	551,876.51	56,005.50	607,882.01
Year ended June 30th, 1890	504,865.14	61,175.50	566,040.64
Year ended June 30th, 1891	658,060.87	60,618.00	718,678.87
Year ended June 30th, 1892	313,641.43	61,685.00	375,326.43
Year ended June 30th, 1893	392,018.83	92,752.00	484,770.83
Year ended June 30th, 1894	497,200.91	92,752.00	589,952.91
Year ended June 30th, 1895	320,273.60	92,752.00	413,025.60
Year ended June 30th, 1896	431,119.56	92,752.00	523,871.56
Total	6,906,283.53	1,264,863.20	8,171,146.73

287 EXHIBIT No. 3.—Filed by Carlton Hillyer, p. 110.

Statement showing the loss sustained by the lessees of the Georgia Railroad from the operations of said railroad, from the beginning of the lease, April 1st, 1881, to the close of the fiscal year ended June 30th, 1896.

Rental of road for fifteen years and three months as per terms of lease for $600,000.00 per annum	$9,150,000.00
Deduct net income for said period	8,171,146.73
Excess of rental over net income	978,853.27
Deduct surplus material acquired by lease and credited to profit and loss	91,960.82
Loss in operations from beginning of lease of June 30th, 1896	886,892.45

EXHIBIT No. 4.—Filed by Carlton Hillyer, p. 111.

GEORGIA RAILROAD COMPANY,
Augusta, Ga., September 23, 1896.

Statement prepared by Carlton Hillyer, auditor Georgia Railroad Company, showing the relationship between certain movements of through and local freights to, from, or passing through Augusta and Atlanta, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1894, the amount of freight business for said year being nearest to the yearly average of business for the three years ending June 30, 1896.

288

Movements.	Mile tonnage.	Georgia Railroad revenue.	Average rate per ton per mile in cents.	Average through rate applied to local tonnage.	Georgia Railroad revenue which would have accrued on local tonnage if same had been hauled at average through rates.	Difference or loss of revenue which would have been suffered by Georgia R. R. if local tonnage had been hauled at average through rates.
From points east of Augusta:						
To local stations on main stem	1,224,424	$23,030	1.88	1.26	$15,427	$7,603
To local stations on branches	343,152	7,895	2.30	1.26	4,324	3,571
To Atlanta	2,212,401	27,817	1.26			
To points west of Atlanta	6,159,069	45,195	0.73			
From points west of Atlanta:						
To local stations on main stem	867,119	22,611	2.61	0.81	7,024	15,587
To local stations on branches	352,365	6,971	1.98	0.81	2,854	4,117
To Augusta	13,807,805	111,722	0.81			
To points east of Augusta	26,812,990	153,321	0.57			
From Augusta:						
To local stations on main stem	595,251	20,085	3.55	1.01	5,709	14,376
To local stations on branches	377,070	11,183	2.97	1.01	3,808	7,375
To Atlanta	56,435	2,076	3.68	1.01	570	1,506
To points west of Atlanta	1,138,872	11,475	1.01			
From Atlanta:						
To local stations on main stem	1,173,048	45,240	3.86	1.09	12,786	32,454
To local stations on branches	240,530	7,205	3.03	1.09	2,622	4,583
To Augusta	168,514	5,416	3.21	1.09	1,836	3,580
To points east of Augusta	1,073,762	11,677	1.09			
Total local freights	5,367,908	151,802	2.83		56,960	94,842
Total through freights	51,205,439	361,207	0.71			
Total of above movements	56,573,347	513,009	0.91		56,960	94,842

289 EXHIBIT No. 5.—Filed by Carlton Hillyer, p. 115.

GEORGIA RAILROAD COMPANY.
Augusta, Ga., September 23, 1896.

Statement prepared by Carlton Hillyer, auditor Georgia Railroad Company, showing the relationship between through and local freights of the Georgia Railroad Company, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1891, the amount of freight business for said year being nearest to the yearly average of business for the three years ending June 30, 1896.

Movements.	Mile tonnage.	Georgia Railroad revenue.	Average rate per ton per mile in cents.	Average through rate applied to local tonnage.	Georgia Railroad revenue which would have accrued on local tonnage if same had been handled at average through rates.	Difference of loss of revenue which would have been suffered by Georgia R. R. if local tonnage had been handled at average through rates.
Local freights	15,988,789	$418,531.74	2.62	0.82	$131,108.15	$287,423.59
Through freights	61,094,368	499,131.27	0.82	.....	.....	.....
Total freights for fiscal year	77,083,167	$917,663.01	1.19	.....	$131,108.15	$287,423.59

290 EXHIBIT No. 6.—Filed by Carlton Hillyer, p. 117.

GEORGIA RAILROAD COMPANY,
Augusta, Ga., September 23, 1896.

Statement prepared by Carlton Hillyer, auditor Georgia Railroad Company, showing the percentage of first-class freights as compared with total freights in certain movements of freights to, from, or passing through Augusta and Atlanta, exclusive of mail, express, and miscellaneous earnings, for the fiscal year ending June 30, 1894, the amount of freight business for said year being nearest to the yearly average of business for the three years ending June 30, 1896.

Movements.	Mile tonnage of first-class freights.	Percentage of first-class mile tonnage.	Mile tonnage of total freights.
From points east of Augusta:			
To local stations on main stem	22,634	1.85	1,224,424
To local stations on branches	6,998	2.04	343,152
To Atlanta	276,306	12.49	2,212,401
To points west of Atlanta	251,175	4.08	6,159,609
From points west of Atlanta:			
To local stations on main stem	13,371	1.54	867,119
To local stations on branches	9,409	2.69	352,365
To Augusta	66,739	0.48	13,897,805
To points east of Augusta	90,603	0.34	26,812,990
From Augusta:			
To local stations on main stem	10,166	1.80	565,251
To local stations on branches	6,542	1.73	377,070
To Atlanta	4,397	7.79	56,435
To points west of Atlanta	5,764	0.51	1,138,872
From Atlanta:			
To local stations on main stem	28,169	2.40	1,173,048
To local stations on branches	18,926	7.87	240,530
To Augusta	15,227	9.04	168,514
To points east of Augusta	29,253	2.72	1,073,762
Total of above movement	855,739	1.51	56,573,347

291 EXHIBIT No. 7.—Filed by Carlton Hillyer, p. 120.

FIXED AND OBLIGATORY CHARGES.

Statement showing the amount of taxes paid by the Georgia Railroad from the beginning of the lease, April 1st, 1881, to the close of the fiscal year ended June 30th, 1896.

The taxes here shown were charged to operating expenses, and hence the statement of income shows the net after the taxes have been paid.

Fiscal year ended March 31st, 1882	6,336.27
Fiscal year ended March 31st, 1883	6,478.64
Fiscal year ended March 31st, 1884	5,465.53
Fiscal year ended March 31st, 1885	5,719.40
Fiscal year ended March 31st, 1886	6,379.50
Fiscal year ended March 31st, 1887	6,117.44
Fiscal year ended March 31st, 1888	6,160.18
Fifteen months ended June 30th, 1889	7,626.77
Fiscal year ended June 30th, 1890	9,799.04
Fiscal year ended June 30th, 1891	10,302.42
Fiscal year ended June 30th, 1892	17,666.38
Fiscal year ended June 30th, 1893	32,637.02
Fiscal year ended June 30th, 1894	20,365.22
Fiscal year ended June 30th, 1895	26,602.05
Fiscal year ended June 30th, 1896	21,551.27
	$189,206.93

292 EXHIBIT No. 8.—Filed by Carlton Hillyer, p. 120.

FIXED AND OBLIGATORY CHARGES.

Statement showing the interest on bonds and other charges paid by the Georgia Railroad on account of the Gainesville, Jefferson and Southern Railroad and the Union Point and White Plains Railroad from the beginning of the lease, April 1st, 1881, to the close of the fiscal year ended June 30th, 1896. The amounts here shown are claims against said roads.

Fiscal year ending Mar. 31st, and after 1888, June 30th.	G., J. & S. R. R.	U. P. & W. P. R. R.	Total charges against G., J. & S. and U. P. & W. P. railroads.
1882 interest on bonds			
1883 interest on bonds			
1884 interest on bonds	18,375.00		18,375.00
1885 interest on bonds	22,238.29		22,238.29
1886 interest on bonds	24,800.00		24,800.00
1887 interest on bonds	24,800.00		24,800.00
1888 interest on bonds	24,800.00		24,800.00
1889 interest on bonds, 15 mos	27,425.00		27,425.00
1890 interest on bonds	24,800.00	2,100.00	26,900.00
1891 interest on bonds	24,800.00	4,200.00	29,000.00
1892 interest on bonds	24,800.00	4,200.00	29,000.00
1893 interest on bonds	24,800.00	4,200.00	29,000.00
1894 interest on bonds	24,800.00	4,200.00	29,000.00
1895 interest on bonds	24,800.00	4,200.00	29,000.00
1896 interest on bonds	21,877.50	4,200.00	26,077.50
Total interest on bonds	$313,115.79	$27,300.00	$340,415.79
Finishing and operating G., J. & S. R. R	37,649.07		
Collections made from U. P. & W. P. R. R		22,163.78	
Total amounts advanced by Georgia Railroad	$350,764.86	$5,136.22	$355,901.08

EXHIBIT No. 9.—Filed by Carlton Hillyer, p. 121.

AUGUSTA, GA., *June 14th, 1897.*

Statement showing amounts expended by Georgia Railroad on improvements in road and equipment from beginning of lease, April 1st, 1881, to the close of the fiscal year ended June 30th, 1896. The amounts here shown were charged to operating expenses, and hence the statement of income shows the net after the payment of these amounts.

293

Fiscal year ended March 31st, 1882	$207,370.67
Fiscal year ended March 31st, 1883	207,030.97
Fiscal year ended March 31st, 1884	81,964.28
Fiscal year ended March 31st, 1885	85,377.82
Fiscal year ended March 31st, 1886	104,188.87
Fiscal year ended March 31st, 1887	151,070.66
Fiscal year ended March 31st, 1888	165,145.98
Fifteen months ended June 30th, 1889	206,359.47
Fiscal year ended June 30th, 1890	208,136.61
Fiscal year ended June 30th, 1891	185,399.79
Fiscal year ended June 30th, 1892	256,445.09
Fiscal year ended June 30th, 1893	91,097.56
Fiscal year ended June 30th, 1894	48,925.40
Fiscal year ended June 30th, 1895	100,648.19
Fiscal year ended June 30th, 1896	95,056.03
Total	$2,194,217.39

EXHIBIT No. 10.—Filed by Carlton Hillyer, p. 122.

Statement showing total Georgia Railroad freight revenue and mile tonnage of freight-earning revenue carried by the Georgia Railroad from the beginning of the lease, April 1st, 1881, to the close of the fiscal year ended June 30th, 1896:

Fiscal year ended on March 31st, and after 1888, on June 30th.	Total freight revenue.	Mile tonnage of freight originating on the Georgia R. R.	Mile tonnage of freight received from connecting roads and other carriers.	Total mile tonnage.
1882	$947,624	10,905,639	34,799,435	45,705,074
1883	951,807	12,011,185	34,498,246	46,509,431
1884	929,928	11,677,918	41,552,920	53,230,838
1885	907,046	12,302,120	43,830,651	56,132,771
1886	950,209	12,704,767	43,836,388	56,541,155
1887	990,731	12,563,368	49,395,894	61,959,262
1888	1,089,321	14,945,345	49,954,063	64,899,408
1889	1,126,304	14,722,631	60,412,756	75,135,387
1890	1,202,266	16,385,122	65,215,900	81,601,022
1891	1,348,388	21,433,115	68,936,993	90,370,108
1892	1,113,082	17,739,026	63,332,208	81,091,234
1893	1,051,896	18,778,961	58,627,776	77,406,737
1894	986,067	14,132,140	63,360,118	77,492,258
1895	956,374	16,833,859	65,921,825	82,755,684
1896	1,052,836	16,375,191	72,650,218	89,025,409

COPY BOUND CLOSE IN CENTER

294 EXHIBIT No. 11.—Filed by Carlton Hillyer, p. 122.

Statement showing yearly averages of revenue, expenses, tons, trains, and miles for Georgia R. R. freight business as per reports to the Interstate Commerce Commission from the beginning of said reports in 1888 to the close of the fiscal year ended June 30th, 1896.

This statement shows the cost per ton mile and the cost per freight-train mile for the years during which the rules for computing the same were in operation.

Years ending June 30th—	Average distance haul per ton, in miles.	Average freight receipts per ton per mile, in cents.	Estimated cost of carrying one ton one mile, in cents.	Freight earnings per train mile.	Estimated cost of running a freight train one mile.
1888	135	1.60	1.02	1.29	0.82
1889	135	1.43	.92	1.36	0.89
1890	136	1.39	1.02	1.40	1.05
1891	135	1.41	.93	1.49	0.98
1892	114	1.29	1.04	1.34	1.18
1893	107	1.27	.91	1.21	0.87
1894	109	1.18	.....	1.21	.....
1895	117	1.08	.....	1.42	.....
1896	109	1.09	.....	1.26	.....

298 EXHIBIT No. 14.—Filed by R. E. Lutz, p. 169.

THE WESTERN RAILWAY OF ALABAMA AND
THE ATLANTA & WEST POINT R. R. CO.,
Office Traffic Manager, Montgomery, Ala., June 16, 1897.

From New York, N. Y., to—	Per 100 pounds. 1.	2.	3.	4.	5.	6.	A.	B.	C.	D.	E.	H.	Per bbl. F.	Distance from New York.
B. and W. stations:														
Alapaha, Ga	126	108	92	70	55	42	40	38	29	27	60	68	49	384
Enigma, Ga	126	108	92	70	55	42	40	38	29	27	60	68	49	391
Brookfield, Ga	130	110	94	72	56	43	41	39	29	27	61	70	50	394
Tv. Ty., Ga	133	114	97	73	57	44	42	40	29	28	62	71	51	411
Sumner, Ga	135	115	99	74	59	46	44	41	30	28	64	72	53	417
Poulain, Ga	135	115	99	74	59	46	44	41	30	28	64	72	63	420
Isabella, Ga	138	118	102	75	60	47	45	42	30	28	65	73	54	423
Willingham, Ga	131	112	100	75	60	47	45	42	30	28	65	73	54	428
Davis, Ga	128	113	99	76	61	48	44	44	31	29	68	72	56	433
Augusta Southern:														
Richmond Ga	120	102	90	73	61	49	40	54	37.5	36	57	69	72.5	393
Hepzibah, Ga	123	105	93	76	64	51	42	56	38	36.5	60	72	75.5	398
Bath, Ga	126	108	94	79	65	52	43	57	39	37	61	75	75	401
Keysville, Ga	129	111	97	82	67	54	45	57	39.5	37.5	63	78	76	409
Matthews, Ga	132	113	99	84	68	54	45	57	39.5	37.5	64	80	76	414
Wrens, Ga	135	116	102	87	70	55	46	57	40	38.5	66	83	77.5	418
Stapleton, Ga	137	117	103	88	71	55	46	57	40	38.5	67	84	77.5	423
Avera, Ga	137	117	104	88	71	55	46	57	40.5	39	67	84	77.5	423
Gibson, Ga	138	119	105	89	72	55	46	57	40.5	39	68	85	78.5	418
Belle Springs, Ga	141	122	106	90	74	57	48	57	41	39.5	70	86	79	414
Mitchell, Ga	142	123	108	92	74	57	48	57	41	39	70	88	79	410
Agricola, Ga	142	123	109	92	74	57	48	57	41	39	70	88	79	407
Chalker, Ga	145	126	109	93	75	58	49	57	41	38.5	71	89	78.5	405
Warthen, Ga	146	127	110	91	75	58	49	56	40.5	38	71	87	77.5	398
Silas, Ga	143	123	108	88	73	58	49	53	39.5	36.5	69	84	75	391
Wrightsville and Tennille Ry.:														
Lindsay, Ga	148	120	105	86	71	57	48	51	39.5	35.5	67	82	75	388.5
Peacock, Ga	139	120	106	86	71	57	48	51	39.5	36.5	67	81	75	390.5
Harrison, Ga	137	121	106	89	73	59	48	53	40.5	38	68	80	77.5	394.5
Donovan, Ga	137	121	106	90	75	60	48	54	41	38.5	68	80	78.5	398.5
Wrightsville, Ga	134	119	103	88	74	60	47	54	41	38.5	67	78	78.5	401.5
Meadows, Ga	132	116	102	85	73	59	45	55	41	39	66	75	80	406
Lovett, Ga	132	116	102	85	73	59	45	56	41	39.5	66	75	80.5	408.5

316 *Final decree.*

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, The Georgia Railroad & Banking Company, The Louisville & Nashville Railroad Company, and the Central Railroad & Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond & Danville Railroad Company and the Georgia Pacific Railroad Company, lessees of the Central Railroad of Georgia; D. H. Chamberlain, receiver, H. M. Comer, receiver, Reuben Foster and F. W. Huidekoper, receivers. } No. 525.

This cause came on to be heard before Hon. Wm. T. Newman, judge, etc., upon the petition or bill, the answers thereto, exhibits, the testimony, stipulations, and argument of counsel.

Whereupon, upon consideration thereof, it is ordered, adjudged, and decreed by the court that the matters of equity alleged in the petition or bill are fully denied in the answers and are not sustained by the proof, and therefore that the said petition or bill be dismissed, and that the injunction prayed for therein be refused.

It is further ordered, adjudged, and decreed by the court that the costs of this cause shall be taxed by the clerk to be paid out of the appropriation for expenses of the courts of the United States, as provided in section 16 of the act to regulate commerce.

In open court, July 6, 1898.

WM. T. NEWMAN,
U. S. Judge.

317 Filing: Filed in clerk's office 6 day of July, 1898. O. C. Fuller, clerk.

Petition for appeal and grant of appeal.

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad and Banking Company, et al. } In equity, No. 525.

Comes the Interstate Commerce Commission this the 6th day of July, 1898, by G. L. Bell, assistant United States attorney, and in open court applies for an appeal from the final decree therein to the United States circuit court of appeals for the fifth circuit, and the said petitioner, the Interstate Commerce Commission of the United States, being a department of the Government, and this appeal being entered as such, and it appearing that the matter in dispute in said cause exceeds the sum or value of five thousand dollars, exclusive of costs, it is therefore ordered that said

application for appeal be, and the same is hereby, granted and made returnable not exceeding thirty days from this date, and that the same be filed in this court.

This the 6th day of July, 1898. WM. T. NEWMAN,
United States Judge.

Filing: Filed in clerk's office 6 day of July, 1898. O. C. Fuller, clerk.

321 *Citation.*

In the circuit court of the United States for the northern district of Georgia.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE GEORGIA RAILROAD & BANKING COMPANY, et al. } In equity, No. 525.

To The Clyde Steamship Company, The South Carolina Railway Company, The Georgia Railroad & Banking Company, The Louisville & Nashville Railroad Company and The Central Railroad & Banking Company of Georgia, lessees of the Georgia Railroad; The Richmond & Danville Railroad Company and the Georgia Pacific Railroad Company, lessees of the Central Railroad of Georgia; D. H. Chamberlain, receiver, H. M. Comer, receiver, and Reuben Foster and F. W. Huidekoper, receivers.

You are hereby cited and admonished to be and appear at the court room of the United States circuit court of appeals for the fifth circuit at New Orleans, Louisiana, on the 6th day of August, 1898, pursuant to an appeal allowed and granted by the circuit court of the United States for the northern district of Georgia, at Atlanta, in the above entitled case, to show cause, if any there be, why the decree of said circuit court of the United States for the northern district of Georgia, at Atlanta, rendered on the 6th day of July, 1898, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness Wm. T. Newman, United States district judge for the northern district of Georgia, this the 6th day of July, in the year of our Lord one thousand eight hundred and ninety-eight (1898).

WM. T. NEWMAN,
U. S. Judge.

Service.

Service of the above citation is hereby accepted and copy waived this the 14 day of July, 1898. ED. BAXTER,
Solr. for Defendants as of Record.

U. S. circuit court. Filed in clerk's office Jul. 6, 1898. O. C. Fuller, clerk.

UNITED STATES OF AMERICA,
Northern District of Georgia:

I, Olin C. Fuller, clerk of the circuit court of the United States of America for the northern district of Georgia, in the fifth circuit, do hereby certify that the foregoing pages numbered from 1 to 641 inclusive, contain a full, true, and complete transcript of the record and proceedings had in said court in the case of The Interstate Commerce Commission against the Clyde Steamship Company, The South Carolina Railway Company, The Georgia Railroad and Banking Company, The Louisville & Nashville Railroad Company and the Central Railroad and Banking Company of Georgia, lessees of The Georgia Railroad; The Richmond and Danville Railroad Company and The Georgia Pacific Railway Company, lessees of The Central Railroad of Georgia; D. H. Chamberlain, receiver, H. M. Comer, receiver, and Reuben Foster and F. W. Huidekoper, receivers, as the same remain of record and on file in my office.

In testimony whereof I have caused the seal of said court to be affixed, at the city of Atlanta, in the northern district of Georgia, in the fifth circuit, this 28th day of July, in the year of our Lord one thousand eight hundred and ninety-eight, and of the Independence of the United States the one hundred and twenty-second.

[SEAL.] OLIN C. FULLER, *Clerk.*

323 United States circuit court of appeals, fifth circuit.

November term, 1898.

[Extract from minutes.]

MONDAY, *December 19th, 1898.*

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als., appellees. } No. 751.

This cause was regularly called this day, and was argued by Mr. L. A. Shaver for appellant and by Mr. Ed. Baxter for the appellees, when the further hearing was postponed until to-morrow.

November term, 1898.

[Extract from minutes.]

TUESDAY, *December 20, 1898.*

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als., appellees. } No. 751.

This cause came on again to be heard this day, and was submitted to the court after further argument by Mr. L. A. Shaver for appellant and by Mr. Ed. Baxter for the appellees.

324 November term, 1898.

[Extract from minutes.]

MARCH 21, 1899.

Decree.

THE INTERSTATE COMMERCE COMMISSION
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als. } No. 751.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the northern district of Georgia, and was argued by counsel.

On consideration whereof it is now here ordered, adjudged, and decreed that the decree of the said circuit court in this cause be, and the same is hereby, affirmed, at the costs of the appellant.

325 United States circuit court of appeals, fifth circuit.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY, et als., appellees. } No. 751.

Petition for appeal.—Filed April 12, 1899.

The Interstate Commerce Commission, by J. Ward Gurley, United States attorney, and L. A. Shaver, esq., solicitor of said Commission, under the direction of the Attorney-General of the United States, represents that in the final decree of said circuit court of appeals rendered on the 21st day of March, 1899, there is manifest error to its injury; and therefore, being a department of the Government of the United States, it prays for an order granting an appeal from said decree to the Supreme Court of the United States.

J. WARD GURLEY,
United States Attorney for the Eastern District of Louisiana.

L. A. SHAVER,
Solicitor for the Interstate Commerce Commission.

330 *United States circuit court of appeals, fifth circuit.*

November term, 1898.

[Extract from minutes.]

WEDNESDAY, *April 12, 1899.*

THE INTERSTATE COMMERCE COMMISSION, APPELLANT,
vs.
THE CLYDE STEAMSHIP COMPANY, THE SOUTH CAROLINA RAILWAY COMPANY et als. } No. 751.

Order allowing appeal.

In this cause, the Interstate Commerce Commission, by J. Ward Gurley, United States attorney, and L. A. Shaver, esq., solicitor of said

Commission, under the direction of the Attorney-General of the United States, having made its application in writing for an appeal from the final decree therein, rendered on the 21st day of March, 1899, to the Supreme Court of the United States, and the said Interstate Commerce Commission, being a department of the Government, and it appearing that the matter in dispute in said cause exceeds the sum of $5,000.00, exclusive of costs, it is therefore ordered that said appeal be, and the same is hereby, granted and made returnable on the 12th day of May, 1899.

DON A. PARDEE,
Circuit Judge.

APRIL *12th, 1899.*

346 *United States circuit court of appeals for the fifth circuit.*

I, J. M. McKee, clerk of the United States circuit court of appeals for the fifth circuit, do hereby certify that the foregoing 346 pages, numbered from a to 345, inclusive, contain a true copy of the record upon which the cause was tried in the United States circuit court of appeals for the fifth circuit, and of all proceedings had, including the opinion of the court in the case of the Interstate Commerce Commission, appellant, vs. The Clyde Steamship Company et als., appellees, No. 751, as the same remains upon the files and records of said United States circuit court of appeals.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States circuit court of appeals, at the city of New Orleans, this 8 day of May, A. D. 1899.

[SEAL.] J. M. McKEE,
Clerk of the United States Circuit Court of Appeals for the Fifth Circuit.

347 *Citation on appeal.*

The United States of America, fifth judicial circuit.

The President of the United States to The Clyde Steamship Company, The Georgia Railroad Company et al., or to Ed. Baxter, their solicitor of record, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States at Washington, D. C., within 30 days from the date hereof, pursuant to the appeal sued out and filed in the clerk's office in the United States circuit court of appeals for the fifth circuit, in the cause wherein the Interstate Commerce Commission was appellant, and you were appellees, to show cause, if any there be, why the decree rendered against the said Interstate Commerce Commission, as in said petition for appeal mentioned, should not be corrected, and why speedy justice should not be done in that behalf.

Witness, the Honorable Don A. Pardee, United States circuit judge for the fifth judicial circuit, this the 12th day of April, in the year of our Lord one thousand eight hundred and ninety-nine.

DON A. PARDEE,
Circuit Judge.

I hereby accept service of the above citation.

ED. BAXTER,
Solicitor for Appellees as shown of Record.

(Indorsed:) No. 751. United States circuit court of appeals, fifth circuit. The Interstate Commerce Commission, appellant, vs. The Clyde Steamship Co., The Georgia Railway Co. et al., appellees. Citation on appeal. Filed April 27, 1899. J. M. McKee, clerk. J. Ward Gurley, U. S. atty.: L. A. Shaver, solicitor.

349 In the Supreme Court of the United States. October Term, 1899.

THE INTERSTATE COMMERCE COMMISSION, APPELLANT, *vs.* THE CLYDE STEAMSHIP COMPANY, THE GEORGIA Railroad Company, et al.	No. 307. (No. 751 in circuit court of appeals.)
THE INTERSTATE COMMERCE COMMISSION, APPELLANT, *vs.* THE WESTERN & ATLANTIC RAILROAD COMPANY et al.	No. 308. (No. 750 in circuit court of appeals.)
THE INTERSTATE COMMERCE COMMISSION, APPELLANT, *vs.* THE CLYDE STEAMSHIP COMPANY, THE ATLANTA & West Point Railroad Company, the Western Railway Company of Alabama, et al.	No. 309. (No. 752 in circuit court of appeals.)

Stipulation as to parts of record to be printed.

It is stipulated between the attorneys for the appellant and the appellees in the above stated cases that the following portions of the records in said cases be printed in the record in this court in case 308 only, and be omitted in printing the records in this court in cases 307 and 309, to wit:

350 1. The report and opinion of the Commission, which is the same in all three cases.

2. The opinion of the circuit court, which is the same in said three cases.

3. The opinion of the circuit court of appeals, which is the same in said three cases.

4. The stipulation entitled "Stipulation of counsel relative to certain testimony to be used in cases Nos. 524, 525, and 526," and which was entered into in all three cases. Said stipulation appears on pages 94 and 95 of the record in the circuit court of appeals in said case No. 308, said case being numbered 750 in that court.

5. The "Articles of association of the Southeastern Freight Association," which appear on pages from 262 to 266, inclusive, in the record in the circuit court of appeals in said case No. 308.

6. "An act to provide for the regulation of railroad freight and passenger tariffs," &c., in the State of Georgia, which appears in the record in the circuit court of appeals in said case No. 308, on pages from 314 to 321, inclusive.

7. The matter commencing with the words "Exhibit No. 6, filed by J. M. Brown," which embraces "Freight tariff classes—percentages," and also "Classified list of railroads in Georgia," which appears on pages from 305 to 308, inclusive, in the record in the circuit court of appeals in said case No. 308.

351 8. The assignment of errors which is the same in all three cases.

9. The matter entitled "The Southern States Freight Association. Classified statement of tonnage from points on and beyond the Ohio and Mississippi rivers and from and via Lexington, Ky., and from Nashville, Tenn., Johnsonville, Tenn., and Florence, Sheffield, and Riverton, Ala., to Atlanta, Ga., during the year ended March 31st, 1893," which appears on page 267 of the record in the circuit court of appeals in said case No. 308, said case being numbered 750 in that court.

10. The matter entitled "The Southern States Freight Association. Statement of tonnage from the Eastern seaboard and interior points in New England, New York, Pennsylvania, Maryland, Delaware, and West Virginia, to Atlanta, Ga., during the year ended March 31st, 1893," which appears on page 268 of the record in the circuit court of appeals in said case No. 308, said case being numbered 750 in that court.

11. The matter entitled "Statement of average receipts per ton per mile, etc., of various railroads," which appears on pages 323 and 324 of the record in the circuit court of appeals in said case No. 308, said case being numbered 750 in that court.

L. A. SHAVER,
Counsel for Commission.

ED. BAXTER,
Counsel for Carriers.

352 (Endorsed:) File No., 17421, 17422, 17423. Supreme Court U. S., October Term, 1899. Term Nos., 307, 308, and 309. The Interstate Commerce Commission, appellant, *vs.* the Clyde Steamship Co. et al., The Western & Atlantic R. R. Co. et al., and The Clyde Steamship Co. et al. Stipulation as to parts of records to be printed. Filed March 8, 1900.

(Indorsement on cover:) File No., 17421, U. S. C. C. of Appeals, 5th Circuit, Term No., 307. The Interstate Commerce Commission, appellant, *vs.* The Clyde Steamship Company, The Georgia Railroad Company, et al. Filed May 23, 1899. Office Supreme Court of U. S. received May 11, 1899.

O